
APPROPRIATION OF LAND FOR PLANNING PURPOSES AT BLACKWELL

**Responsible Cabinet Member - Councillor Chris McEwan,
Economy and Regeneration Portfolio**

Responsible Director – Ian Williams, Director of Economic Growth

SUMMARY REPORT

Purpose of the Report

1. To seek Cabinet’s approval to appropriate land at Blackwell including parts of the former Blackwell Grange Golf Course for residential development.

Summary

2. Cabinet, at its meeting on 3 November 2015, agreed to the allocation of sites He1, He1(a), extended sites He2 and He3 and site He4 (located in Blackwell and Blackwell Grange) into the Local Plan: Making and Growing Places Development Plan Document. Cabinet also agreed that the land be declared surplus to requirements and the Director of Economic Growth in consultation with the Portfolio Holder be authorised to negotiate and conclude the sale of the land and enter into any ancillary agreements.
3. These parcels of land, as shown in **Appendix 1**, are currently used as open land and the majority formerly used as a golf course. It is proposed that these parcels of land be appropriated for planning purposes under section 122 of the Local Government Act 1972 and subject to the powers provided by section 237 of the Town & Country Planning Act 1990. The redevelopment of the land will improve the economic, environmental and social wellbeing of the Borough and the effect of appropriating land in this way is that the rights of affected third parties (such as rights of light and rights of access) can be overridden. Appropriation extinguishes the potential for third parties claiming rights over the Council’s land.

Recommendation

4. It is recommended that Cabinet approves the appropriation of the land identified in the report, for planning purposes under section 122 of the Local Government Act 1972 and subject to the powers provided by section 237 of the Town & Country Planning Act 1990 for the reasons set out in this report.

Reasons

5. The recommendations are supported as the appropriation of the land for planning purposes will facilitate the restoration of the remaining open space to parkland, will contribute to the improvement of the local economy by providing high quality dwellings and will allow public access to the remaining open space.

Ian Williams, Director of Economic Growth

Background Papers

No background papers were used in the preparation of this report.

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S17 Crime and Disorder	No implications
Health and Well Being	A key objective of Local Plan policies is to improve people's health and wellbeing by protecting and improving the economic, social and environmental conditions in the Borough.
Carbon Impact	Achieving sustainable development is a fundamental objective of the Local Plan.
Diversity	No impacts
Wards Affected	Park West
Groups Affected	None
Budget and Policy Framework	The land proposed for residential development is owned by the Council. Therefore, there is a potential capital receipt reflecting residential land values.
Key Decision	No
Urgent Decision	No
One Darlington: Perfectly Placed	The Local Plan reflects the spatial implications of the overarching aims of One Darlington: Perfectly Placed and the proposals for Blackwell accord with the adopted Core Strategy.
Efficiency	Not applicable

MAIN REPORT

Information and Analysis

6. The Council holds land for various statutory purposes in order to provide its functions. Such land is used only for the purpose of the function for which it was originally acquired until such time as the land is disposed of or "appropriated" for another purpose.
7. Appropriation is the statutory procedure to change the purpose for which land is held from one statutory purpose to another provided that the land is no longer required for the purpose for which it was held immediately before the appropriation. The Council wishes to see the land outlined on the plan in Appendix 1, developed

for housing. By appropriating the sites for planning purposes, the Council will be able to secure their redevelopment and future use by relying on the statutory provisions relating to the redevelopment and disposal of land held for planning purposes.

8. These parcels of land, are currently used as open land and the majority were used as a golf course by the Blackwell Grange Golf Club, a private members club.
9. Cabinet, at its meeting on 3 November 2015, agreed to the allocation of these sites, He1, He1(a), extended sites He2 and He3 and site He4, into the Local Plan: Making and Growing Places Development Plan Document. Cabinet also agreed that the land be declared surplus to requirements and the Director of Economic Growth in consultation with the Portfolio Holder be authorised to negotiate and conclude the sale of the land and enter into any ancillary agreements. Therefore, it is proposed that these parcels of land be appropriated for planning purposes under section 122 of the Local Government Act 1972 and subject to the powers provided by section 237 of the Town & Country Planning Act 1990.
10. The use of appropriation power needs to be justified by a clear 'public interest' case that overrides the individual rights (such as rights of light and rights of access) of potential affected third party owners and occupiers of nearby properties. The appropriation of the land for residential development will:-
 - (a) facilitate the restoration of the remaining open space to parkland;
 - (b) contribute to the improvement of the local economy by providing high quality dwellings and construction jobs and domestic services jobs and,
 - (c) allow public access to the remaining open space.
11. 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. Cabinet 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 parcels of land shown outlined on the plan at Appendix 1 are appropriated for planning purposes.

Legal implications

12. The Council can appropriate land that is no longer required for a purpose for another purpose under Section 122 of the Local Government Act 1972 and make use of the powers under section 237 of the Town & Country Planning Act 1990 to allow the Council to construct the development permitted by planning permission even where that development interferes with third party rights or breaches restrictions against the land.
13. The Council when appropriating land for planning purposes needs to be satisfied that it will facilitate the carrying out of development, redevelopment or improvement on or in relation to land and that it is likely to contribute to the achievement of namely the promotion or improvement of the economic, social or environmental well-being of the whole or part of it.
14. As the land comprises a large area of open land it is recommended that notice be served under Section 122 of the Local Government Act 1972 with regard to the proposed appropriation and any objections be considered.