

Date of issue: Wednesday, 2 November 2022

MEETING	CABINET	
	Councillor Swindlehurst	Leader of the Council and Cabinet Member for Council Recovery, Forward Strategy & Economic Development
	Councillor Mann	Deputy Leader and Cabinet Member for Housing & Planning
	Councillor Ajaib	Customer Services, Procurement & Performance
	Councillor Akram	Leisure, Culture & Community Empowerment
	Councillor Anderson	Financial Oversight & Council Assets
	Councillor Bains	Public Protection, Regulation & Enforcement
	Councillor Hulme	Children's Services, Lifelong Learning & Skills
	Councillor Nazir	Transport & The Local Environment
	Councillor Pantelic	Social Care & Public Health
DATE AND TIME:	WEDNESDAY, 2ND NOVEMBER, 2022 AT 6.30 PM	
VENUE:	COUNCIL CHAMBER - OBSERVATORY HOUSE, 25 WINDSOR ROAD, SL1 2EL	
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	NICHOLAS PONTONE 07749 709 868	

SUPPLEMENTARY PAPERS

The following Papers have been added to the agenda for the above meeting:-

* Item 2 is an updated version of the papers circulated with the agenda.

PART 1

<u>AGENDA</u> <u>ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
2.	Montem Site Appropriation	1 - 16	All

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SLOUGH BOROUGH COUNCIL

REPORT	Special Cabinet
DATE:	02 November 2022
SUBJECT:	Montem Site Appropriation
CHIEF OFFICER:	Patrick Hayes - Executive Director Housing and Property
CONTACT OFFICER:	Patrick Hayes - Executive Director Housing and Property
WARD(S):	All
PORTFOLIO:	Councillor Robert Anderson, Lead Member for Financial Oversight and Council Assets
KEY DECISION:	Yes
EXEMPT:	No
DECISION SUBJECT TO CALL IN:	No

APPENDICES

- A. Report to Council on 22 September 2022 - Recommendation of the Cabinet from the Meeting Held 18th July 2022 – Montem Lane Appropriation
- B. Montem Appropriation Plan

1 Summary and Recommendations

- 1.1 On 18 July 2022 Cabinet resolved to recommend to full Council that officers be authorised to take all necessary steps to appropriate the Montem site (shown edged red on the plan in Appendix 5) for planning purposes to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land.
- 1.2 On 22 September Council resolved to appropriate the Montem site to planning (shown edged red in the plan at Appendix 1) under section 226 of the Town and Country Planning Act 1990 on the grounds that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area.

- 1.3 The plan of the land to be appropriated for development attached to both the Cabinet and the Council reports (and attached at Appendix A of this report) mistakenly referred to the land shown edged red on the plan, whereas in fact the proper extent of the land to be appropriated is the land shown edged orange on the plan attached at Appendix B of this report. The land shown edged red on the plan attached to the Cabinet and the Council reports is the footprint of the larger Montem site, and includes land that is not being appropriated.

Recommendations:

Cabinet is therefore recommended to:

- 1.1 Note that the plan of the land to be appropriated for development attached to both the Cabinet and the Council reports mistakenly referred to the land shown edged red on the plan, whereas in fact the proper extent of the land to be appropriated is the land shown edged orange on the plan attached at Appendix B of this report. The land shown edged red on the plan attached to the earlier reports is the footprint of the larger Montem site, and includes land that is not being appropriated.
- 1.2 Agree to appropriate the Montem site to planning (shown edged orange on the plan attached at Appendix B of this report) under section 226 of the Town and Country Planning Act 1990 on the grounds that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area
- 1.3 Agree that officers be authorised to take all necessary steps to appropriate the site (shown edged orange on the plan attached at Appendix B of this report) for planning purposes to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land.
- 1.4 Recommend to full Council to revoke its resolution of 22 September 2022.

Commissioner Review

There are no costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value. The commissioners are therefore content with the report.

2 Report

- 2.1 Full planning permission for the proposed residential development of the Montem Lane site to include 212 new homes has been approved (planning reference: P/07383/010). Planning committee approval was granted in January 2021 and the S106 Agreement was executed in April 2022

2.2 The target date for exchange of contracts on the sale of the Montem site is 11 Nov 2022 and to achieve that date engrossments will need to be in place for 4 Nov 2022 to enable the final purchaser Board approval. Therefore, the revisions to the Appropriation resolution needs to be in place by 4 November to enable the exchange to take place on 11 November.

3. Financial implications

3.1 There are no financial costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and value.

4. Legal implications

4.1 The Council has a general power to appropriate land under section 122 of the Local Government Act 1972 (LGA 1972).

4.2 Section 226 of the Town and Country Planning Act 1990 (TCPA 1990) authorises the Council to acquire compulsorily any land in their area for planning purposes.

4.3 Under para 12 of Part 3.5 (Responsibility for Executive Functions) of the council's Constitution the acquisition and/or appropriation of property for rationalisation of the Council property portfolio or for the facilitation of development initiatives outside of agreed disposal and acquisition policies is a Cabinet function.

4.4 The Responsibility for Council Functions rules states that certain appropriation decisions are reserved to full Council; however this is intended to cover those decisions that can only be taken by full council and relate to allotments and open space. The original decision incorrectly included land that was designated as open space; however the statutory processes had not been followed prior to the decision and therefore even if the Council had intended for this land to be appropriated, it had not followed a lawful statutory process. The Council does not intend for development to take place on the open space land and it is important that the status of the open space remains in place.

4.5 A decision of the Council relating to the appropriation of land or its subsequent disposal can be challenged if the Council has acted beyond its powers or has not carried out the correct legal procedures in making the order. Therefore the Council must make a new decision to appropriate the correct area of land and take a separate report to full Council to revoke its resolution of 22 September 2022.

5. Risk management implications

5.1 Risks

There are no financial costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value.

However, there is a risk of the council acting unlawfully if the plan attached to the recommendation to appropriate to the Montem site does not properly delineate the land to be appropriated by the council.

6. Environmental implications

6.1 No environmental implications have been identified as a direct result of this report.

7. Equality implications

7.1 No equality implications have been identified as a direct result of this report.

8. Procurement implications

8.1 No procurement implications have been identified as a direct result of this report.

9. Workforce implications

9.1 There are no workforce implications relating to this report.

10. Property implications

10.1 The appropriation of the Montem site can proceed

11. Background Papers

None

Appendix A - Report to Council on 22 September 2022

Appendix B -. Montem Appropriation Plan

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Slough Borough Council

Report To:	Council
Date:	22 September 2022
Subject:	Recommendation of the Cabinet from the Meeting Held 18 th July 2022 – Montem Lane Appropriation
Lead Member:	Councillor Anderson, Lead Member for Financial Oversight and Council Assets
Chief Officer:	Richard West, Executive Director Place and Community Steven Mair, Executive Director Finance and Commercial (s151)
Contact Officer:	Dean Tyler, Associate Director Place Strategy and Infrastructure Carmel Booth, Financial Advisor
Ward(s):	All
Key Decision:	YES
Exempt:	No
Decision Subject To Call In:	YES
Appendices:	Appendix 1 – Montem Appropriation Plan

1. Summary and Recommendations

1.1 This purpose of this report is to consider the recommendation of the Cabinet from its meeting held on 18th July 2022 to appropriate the Montem site to planning.

Recommendations:

1.2 The Council is requested to resolve to appropriate the Montem site to planning (shown edged red in the plan at Appendix 1) under section 226 of the Town and Country Planning Act 1990 on the grounds that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, and the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area.

Reason

1.3 Appropriation of the land to planning purposes will aid with the disposal of this key site for residential development.

Commissioner Review

- 1.4 There are no costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value. The commissioners are therefore content with the report.

2. Report

- 2.1 Full planning permission for the proposed residential development of the Montem Lane site to include 212 new homes has been approved (planning reference: P/07383/010). Planning committee approval was granted in January '21 and the S106 Agreement was executed in April '22.
- 2.2 There are no costs or risks associated with the appropriation of the Montem site to planning (shown edged red the plan at Appendix 1) and the process de-risks future redevelopment of the land adding to deliverability and land value.

3. Implications of the Recommendation

3.1 Financial implications

- 3.1.1 There are no financial costs or risks associated with the appropriation process and the process de-risks future redevelopment of the land adding to deliverability and land value.

3.2 Legal Implications

- 3.2.1 At the Cabinet meeting on 19 July Cabinet considered a report titled 'Slough Urban Renewal - disposals update'. Recommendation 11 (e) of the agreed decisions:

"Noted that those parts of the Montem site which belong to the Council are no longer required for the purposes for which they are presently held, and recommend to full Council that officers be authorised to take all necessary steps to appropriate the site (shown edged red on the plan in Appendix 5) for planning purposes to facilitate the carrying out of development, redevelopment or improvement on or in relation to that land"

- 3.2.2 The Council has a general power to appropriate land under section 122 of the Local Government Act 1972 (LGA 1972).

Section 226 of the Town and Country Planning Act 1990 (TCPA 1990) authorises the Council to acquire compulsorily any land in their area for planning purposes.

This acquisition can take place:

- If the Council thinks:
 - the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land (*section 226(1)(a), TCPA 1990*);
 - and

- the proposed development, redevelopment or improvement is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole, or any part, of their area (*section 226(1)(a) and (1A), TCPA 1990*).

A decision to appropriate land for planning purposes under section 226(1) of the TCPA 1990 must indicate that this is the purpose of the appropriation.

Under section 233(1) of the TCPA 1990, the Council can dispose of land appropriated for planning purposes to such person, in such manner and subject to such conditions as appear to the Council to be expedient to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by the Council or by any other person) (*section 233(1)(a), TCPA 1990*).

A disposal of land under section 233 of the TCPA 1990 includes a sale of the freehold interest, granting a lease, assigning any unexpired term of a lease or the granting of easements.

- 3.2.3 Under section 123 of the Local Government Act 1972 , the Council has a statutory duty to sell land at the best price reasonably obtainable.
- 3.2.4 A decision of the Council relating to the appropriation of land or its subsequent disposal can only be challenged if the Council has acted beyond its powers or has not carried out the correct legal procedures in making the order. Legal advice should be sought on the legal procedures for making the appropriation order, and the subsequent disposal.

3.3 Risk Management

- 3.3.1 There are no financial costs or risks associated with the appropriation process.

3.4 Environmental Implications

- 3.4.1 No environmental implications have been identified as a direct result of this report.

3.5 Equality implications

- 3.5.1 No equality implications have been identified as result of this report.

3.6 Procurement implications

- 3.6.1 No issues have been identified for the Council.

4. Background Papers

- 4.1 Montem Lane Summary for Members

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MONTEM LANE, SLOUGH
Appropriation Plan

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