

SLOUGH BOROUGH COUNCIL

REPORT TO: Cabinet **DATE:** 24th January 2011

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WARD (S): Wexham

PORTFOLIO: Leader, Finance Strategy - Councillor Anderson

PART I **NON-KEY DECISION**

APPROPRIATION OF LAND AT MORAY DRIVE, SLOUGH , BERKSHIRE

1. **Purpose of Report**

The purpose of this report is to seek Cabinet approval to publicise the Council's intention to appropriate open space land at Moray Drive, Slough, Berkshire from open space to planning purposes as set out in paragraph 2.1 below.

2. **Recommendations/ Proposed Actions**

The Cabinet is requested to resolve that notice be given of the Council's intention to appropriate the land shown edged red on the Plan annexed to this report at Appendix A, which forms part of the Moray Drive playground ("the Land"), from open space to planning purposes under the provisions of Section 122 of the Local Government Act 1972 (as amended) (the "1972 Act") and to consider any objections to the proposed appropriation at its meeting in March 2011.

3. **Community Strategy Priorities**

- **Being Safe, Feeling Safe**
The installation of new play equipment in the play area will contribute to the safety of children using the play area.
- **A Cleaner, Greener Place to Live, Work and Play**
The provision of 2 x four bedroom family homes will provide 2 much needed larger clean, new family homes which will also reduce the housing waiting list.

4. **Other Implications**

4.1 **Financial:**

The recommendation contained in this report does not have any significant implications although there will be a small cost of publicising the Council's intention to appropriate the Land from open space to planning purposes should the Cabinet follow the recommendation in paragraph 2.1 above.

4.2 **Human Rights Act & Other Legal Implications:**

A local authority as a landowner may hold its land for a variety of statutory purposes eg housing, planning or open space. Section 122 of the 1972 Act permits a local authority to appropriate (transfer) its land from one statutory purpose to another where it concludes that the land is no longer required for the former purpose. However, where the land is currently open space a local authority cannot appropriate it for another purpose until its intention has been publicised in a notice and any objections received to the proposed appropriation have been considered. The relevant statutory provisions are contained in Appendix C to this report.

- 4.3 A local authority, acting in good faith, is a sole judge of the question whether or not any land is still required for the purpose it is held immediately before the appropriation and this decision cannot be challenged in the absence of bad faith.

5. **Background/ Supporting Information**

- 5.1 On the 15th March 2010, the Council, as Local Planning Authority, granted conditional planning permission for the erection of a pair of separate semi-detached two story four bedroom houses with access and parking on land adjacent to 53 Moray Drive and rear of 47-53 Moray Drive, Slough, Berkshire. The area of the Land is shown edged red on the Plan. The proposed development is to be carried out by the Thames Valley Housing Association and is illustrated on Plan 2 annexed to this report as Appendix B.
- 5.2 As Members will see the Land that is the subject of the planning permission comprises part of the playground at Moray Drive, Slough but the retained open space shown edged blue on the Plan and which comprises 1,353 square metres will form part of a new play area. The play area is to be constructed by the developer with Slough Borough Council approval and this will therefore, add a new play area to this sit in addition to the social housing.
- 5.3 Once the Council has publicised its intention to appropriate the open space land for planning purposes the Cabinet will need to consider any objections that are received and apply the legal test as set out in this report (including Appendix C), before any decision is made.

6. **Conclusion**

Members are requested to authorise the publication of the Council's intention to appropriate the area of land shown edged red on the Plan from open space to planning purposes to facilitate the proposed housing development of the Thames Valley Housing Association.

Appendices

Appendix A - Plan of the Land

Appendix B - Plan 2 of the housing proposal.

Appendix C - Section 122, Local Government Act 1972 (as amended).