

## **Slough Borough Council**

**REPORT** Council

**DATE:** 22 November 2022

**SUBJECT:** Recommendations of the Cabinet from its meeting held on 2<sup>nd</sup> November 2022:  
Montem Site Appropriation

**CHIEF OFFICER:** Patrick Hayes - Executive Director Housing and Property

**CONTACT OFFICER:** Patrick Hayes - Executive Director Housing and Property

**WARD(S):** All

**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 The purpose of this report is the request Council to revoke its resolution of 22<sup>nd</sup> September 2022 in relation to the appropriation of land at Montem Lane.
- 1.2 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.
- 1.3 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:**

Council is recommended to:

- (a) Note that at a Special Meeting held on 2<sup>nd</sup> November 2022 the Cabinet resolved as follows:
- 1.1 *Noted 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 *Agreed 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 *Agreed 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.*
- (b) 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 was 11 November 2022 and to achieve that date engrossments needed to be in place for 4 November 2022 to enable the final purchaser Board approval. Therefore, the revisions

to the Appropriation resolution needed to be in place by 4 November to enable the exchange to take place on 11 November, hence the resolution at the Special Cabinet meeting held on 2<sup>nd</sup> November 2022.

### 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