

To: Cabinet
Date: 13 September 2023
Report of: Executive Director (Development)
Title of Report: Blackbird Leys Development Project – Land Appropriation

Summary and recommendations	
Purpose of report:	To seek approval to appropriate land (change the statutory basis on which it is held by the Council from one function to another) currently held for public open space purposes at the Blackbird Leys District Centre and Knights Road to be held in future for planning purposes to facilitate the Blackbird Leys Development Project. The appropriation relates to land owned by Oxford City Council only.
Key decision:	Yes
Cabinet Members:	Cllr Ed Turner, Deputy Leader (Statutory) - Finance and Asset Management Cllr Ajaz Rehman, Cabinet Member for Inclusive Communities
Corporate Priority:	Meeting Housing Need; Strong & Active Communities
Policy Framework:	The Oxford Local Plan 2016- 2036, including: <ul style="list-style-type: none"> • A pleasant place to live, delivering housing with a mixed and balanced community (Policy H1 – H16). • Making wise use of our resources and securing a good quality local environment (Policy RE1 – RE9). • Ensuring efficient movement into and around the city (Policy M1 – M5). • Providing communities with facilities and services and ensuring Oxford is a vibrant and enjoyable city to live in and visit (Policy V4, V6, V7). • Areas of Change and Site Allocations including Policy AOC3, SP4, SP15.

Recommendations: That Cabinet resolves to:	
1	Note that following the statutory public notification process of the Council's intention to appropriate the Land to planning purposes, no representations have been received; and
2.	Approve the appropriation of land in the Council's ownership at Blackbird Leys District Centre and Knights Road (see plan at Appendices 1 & 2) ("the Land"), to planning purposes, so as to facilitate its future development for new housing (per planning application number 23/00405/OUTFUL) in accordance with section 122 Local Government Act 1972 and further, thereby, rely on section 203-205 Housing and Planning Act 2016 to permit the development of the Land to proceed. This is necessary to facilitate Phase 1 of the Blackbird Leys Development Project.

Appendices	
Appendix 1	Aerial View of Blackbird Leys Masterplan Sites
Appendix 2	Blackbird Leys Masterplan: District Centre
Appendix 3	Blackbird Leys Masterplan: Knights Road
Appendix 4 (Confidential)	Risk Register
Appendix 5	Benefits of the Blackbird Leys Regeneration Scheme
Appendix 6	Equalities Impact Assessment

Introduction and background

1. Blackbird Leys District Centre and Knights Road were identified as a comprehensive regeneration sites in the Oxford City Council Sites and Housing Plan (2013) and reaffirmed in the Oxford Local Plan 2036. The District Centre is located at the centre of the 1960s estate with major employment sites to the North, an industrial park to the North East, a science park to the South West and the Kassam Stadium to the South.
2. The Leys has some of the most deprived areas in the country, with the 2019 Indices of Deprivation (IMD2019), demonstrating that 3 out of the 4 LSOAs within Blackbird Leys rank amongst the 20% most deprived within England, and amongst the 10% most deprived in terms of education, skills, and training. The latest (2022) Joint Strategic Needs Assessment shows that 27% of children aged under 16 in Greater Leys and 25.2% in Blackbird Leys are living in poverty. These are areas with the highest IMD scores for child poverty in the Oxfordshire.
3. OCC and its appointed developer Peabody have been working together to develop the Blackbird Leys masterplan, focusing on layout, housing mix (including tenure and type), phasing and viability. The masterplan concept has included engagement with the community and is subject to change during the detailed design and planning stage and will be informed by further engagement with the local community. The proposed masterplan is included in Appendices 1-3.

4. For more information on the schemes background refer to the [Council's June Cabinet report on intent to appropriate land in Blackbird Leys.](#)
5. Following Cabinet's decision in June to advertise the Council's intention to appropriate land, this report seeks approval to appropriate the Land. This means changing how the Council holds the land so that it is no longer held for statutory purposes for which it is currently held and instead will in future be held by the Council for planning purposes.
6. Appropriating the Land in this way will allow:
7. The Council to dispose of the land, which may also free some of the land included of its status as public open space ^(OBS) and/or any statutory trusts that may require the land to be used only for public open space purposes; and
8. Once the Planning Permission has been granted, allow the Council to rely on section 203-205 Housing and Planning Act 2016 to override any restrictions on the use or development of Land (private rights of way or other restrictions) in return for payment of compensation to affected landowners.
9. Following the grant of planning permission, the Land will be developed as part of the Phase 1 Blackbird Leys Development Project (See Appendices 1-3).
10. The report considers that whilst no representations have been received from residents about the intent to appropriate the Land following the public notification process, the Council has carried out an Equalities Impact Assessment to determine whether there are any groups likely to be negatively affected by the appropriation process, namely, the loss of public open space at the Knights Road site.
11. Officers believe that the positive economic and social benefits that will be achieved by developing the Land as a mixed-use housing development outweighs any negative impacts across both sites. In reaching this conclusion officers have considered the following including: (1) no representations either opposing or supporting the intended appropriation have been received in response to public notices; (2) the area is well served by a range of good quality parks– which will mitigate the loss of the Land as public open space; (3) an Equality Impact Assessment has been undertaken which indicates that there are no adverse disproportionate long-term impacts.

Rationale for appropriation

12. To progress the Blackbird Leys Development Project, officers are of the view that the appropriation of council-owned land in this area will facilitate the development of the Land and will contribute to the achievement of further economic and social wellbeing of the area, namely in the delivery of affordable housing. Some of the principal benefits of the scheme are outlined in Appendix 5.
13. The land subject to appropriation is all the land required for Phase 1 of the Blackbird Leys Development Project. This will include parts of the District Centre and Knights Road sites, except for what has been shown in grey shading in Appendix 2.

14. The District Centre site does not have land designated as open space, as is the case in Knights Road. However, it is the view of the Council that it should be appropriated to a planning purpose as there may be third party rights that need to be overridden to enable the development to proceed. The beneficiaries of any rights that are overridden as a result of the appropriation will be entitled to compensation.
15. Without overriding of third-party rights, the beneficiaries of those rights could potentially seek an injunction preventing the development from going ahead. Exercising the appropriation powers will override all third-party rights over the Land. These rights may include such things as rights of way that are unrecorded, and that OCC may have no knowledge of. It will also include any infringements of rights to light that may occur if the new development overshadows neighbouring properties.
16. Appendix 2 illustrates the extent of land to be appropriated in the District Centre. The area shown in grey is Phase 2 of the development and is therefore excluded from this appropriation process at this stage. Appropriation for Phase 2 will occur later.
17. Appendix 3 illustrates the extent of land to be appropriated in Knights Road, which includes the entire site. This site will see a reduction in open space in the Northfield Brook ward, which is the focus of the accompanying Equalities Impact Assessment.
18. It is important to note that the land to be appropriated covers only land owned by Oxford City Council.
19. It is also important to note that it will be necessary to bring forward a further appropriation of the Phase 2 site after vacant possession of the properties within that phase has been obtained.

Legal Implications

20. The Council holds land for the statutory purposes for which it was acquired or following acquisition, appropriated. Appropriation is the process by which land held by the Council pursuant to one statutory function is transferred to another statutory function.
21. Section 122 Local Government Act 1972 governs the process of appropriation. The Council may appropriate (transfer) land held from one function to another if it believes that it is no longer required to be held for the function it is presently held for and the purpose for which it is to be held in future is a purpose it could have acquired the land if it did not already own it.
22. Section 122 provides that before appropriating any land which is public open space, and the Council must give notice of its intention to do so and consider any objections made to the proposed appropriation. Notice is given by publishing a notice of its intention to appropriate the land in a local newspaper for 2 consecutive weeks inviting representations.
23. In determining whether to appropriate land that is held for public open space purposes the Council has a duty to properly consider any representations received following publication of the public notice and the outcome of the Equality Impact

Assessment. The decision the Council reaches may be challenged by way of an application for Judicial Review.

24. In further determining whether to appropriate land to planning purposes so as to override rights affecting its development, good practice suggest that Council's should weigh in the balance the reasons of securing the development of the land against the impact the loss or private rights may have on those affected recognising that compensation is payable where such right can be demonstrated to exist.
25. Compensation is payable to landowners whose private rights of way or light are interfered with or overridden to the extent to which the value of their properties are reduced by no longer being able exercise any rights of way that are affected.

Comments/stakeholder engagement

26. The notice to appropriate the land was published in the Oxford Mail between the 1st-14th July 2023. This notice included contact details for the Regeneration Manager for Blackbird Leys, the regeneration mailbox and the Council's postal address to receive comments from members of the public. The Council allowed comments to be received during 28 days from 1st July- 28th July.
27. On the 18th July 2023, the Oxford Mail published an article informing the public about the council's intent to appropriate land at Blackbird Leys. The article also included contact details for comments.
28. The appropriation was raised at the June Blackbird Leys Parish Council meeting on 27/06/23 and was added to the Blackbird Leys community Facebook page.
29. To date the Council has not received comments specifically related to appropriation of the Land at Blackbird Leys.
30. The appropriation notice covered both the land subject to the statutory trust and other land (shown in Appendix 2 ('The District Centre')) as it is necessary to appropriate the whole of the Land to a planning purpose before the works can be undertaken. Appropriation has the effect of overriding restrictions and third-party rights that may affect the use and further development of the Land in return to a right to compensation.
31. Given the nature of the exercise of the powers proposed by the Council it is necessary for the Council to have regard to its public sector equality duty in reaching a final decision to appropriate the Land to planning purposes.

Equalities Impact Assessment

32. The Council and its development partner Peabody have carried out community engagement and consultation regarding the proposed masterplan at Blackbird Leys over several years and officers attend monthly Parish Council meetings to provide updates on the regeneration project.
33. In terms of appropriating the Land for development, one major impact to the local community is the loss of open space used for recreation at Knights Road. When assessing this impact and allocating this site for development, the Council

considered other surrounding open and green spaces including Blackbird Leys Park, Fry's Hill Park, and the Spindleberry Nature Reserve, which also offer residents public open space for recreation. It is the Council's view that the existing Knight's Road recreation ground is of poor quality and therefore the benefit of an additional 84 affordable family homes in the area outweighs the loss of public open space.

34. There is no available usage data to illustrate how often the open space at Knights Road is used, and who is using it. In the absence of such data, the Council must assume that it is well used when carrying out an Equality Impacts Assessment (EQIA), in order to consider the most impactful scenario. It is not a destination park and therefore unlikely to attract visitors from elsewhere so in terms of usage, consideration is given to the needs of those in the immediate vicinity. Given the demographic likely to be using the space, the EQIA has focused on the potentially negative impact this could have on age, disability, health, and wellbeing.
35. Although no comments have been received specifically relating to the appropriation, Blackbird Leys residents have sent comments via the planning portal in response to the scheme's planning application. 19 responses have been received from residents concerned about the reduction in green space and the impact this will have on children, health, wildlife and light reduction, illustrating the value the open space has to the local community.
36. To mitigate the loss of the open space, which includes two football goals and exercise equipment, OCC will move these to Fry's Hill Park, either via Hill (the construction contractor) as part of the project, or if this is not feasible ODS will do this for a small fee, which will be taken from the project contingency.
37. An EQIA has been completed to accompany this report. The findings of this demonstrate that there are no significant adverse disproportionate long-term impacts due to the development and recommends that the ongoing impacts need to be understood as the wider redevelopment takes place.
38. Please refer to Appendix 6 for the Equalities Impact Assessment.

Alternative options

39. None; please refer to 'Rationale for appropriation' and Appendix 5.

Financial implications

40. There were external costs funded from the revenue budget for this project:
41. If Hill are unable to move/re-provide the equipment there may be a small fee for ODS to do so. This will be covered by the Blackbird Leys project contingency budget.
42. Legal costs – if the decision goes to Judicial Review this could cost the council approximately £50, 000. This figure would increase if the council needed to appeal a decision.

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Background Papers:	
1	14th June 2023 Cabinet report: Blackbird Leys Development Project – Land Appropriation
2	Local Plan 2040 and associated documents
3	Hybrid application for the redevelopment of Blackbird Leys District Centre and land off Knights Road, Oxford - 23/00405/OUTFUL

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