
Subject:	APPROPRIATION OF LAND FOR PLAY AREAS
Meeting and Date:	Cabinet – 8 May 2017
Report of:	Roger Walton, Director of Environment and Corporate Assets
Portfolio Holder:	Councillor Trevor Bartlett, Portfolio Holder for Property Management and Public Protection Councillor Pauline Beresford, Portfolio Holder for Housing, Health and Wellbeing
Decision Type:	Non-Key Decision
Classification:	Unrestricted

Purpose of the report: This report seeks to request Cabinet to appropriate land at Barwick Road, Dover to be held for the purpose of Part II of the Housing Act 1985. It also seeks Cabinet approval to give public notice of the Council's intention to appropriate land at Cowdray Square, Deal to be held for the purpose of Part II of the Housing Act 1985

Recommendation:

- (1) To appropriate land at Barwick Road, Dover (as shown on the map at Appendix 1 to this report) to be held for the purpose of Part II of the Housing Act 1985.
- (2) To authorise the Director of Environment and Corporate Assets to give statutory notice of the Council's intention to appropriate land at Cowdray Square, Deal (as shown on the map at Appendix 2 to this report) to be held for the purposes of Part II of the Housing Act 1985, to consider any objections received in response to that notice and to make the appropriation/or not as he considers appropriate.

1. **Summary**

This report seeks the appropriation of land at Barwick Road, Dover and Cowdray Square, Deal to be held for the purpose of Part II of the Housing Act 1985.

2. **Introduction and Background**

2.1 The Review of Play Area Provision 2012-2026 approved by Cabinet in March 2012 identified the St Radigunds ward as an area deficient in play provision. The ward also has a high level of deprivation of health and disability and is in the top 5% most deprived areas in the country. Play provision in connection with housing provided under the Housing Act 1985 had been made in the St. Radigunds Ward, Dover at Barwick Road until 2008 when the equipment was removed due to safety, privacy and topography concerns.

2.2 Following consultation with the local community and working closely with The Triangles Community Centre a project is proposed to provide a non-strategic play area equipped with both play and fitness equipment to address the needs of the people in the ward. The proposed new location is situated within the grounds of the Triangles Community Centre, opposite the decommissioned area in Barwick Road and is unused waste ground next to the community centre building. The Triangles Community Centre hold a 125 year lease, expiring in 2128, but the Centre has agreed to release the land without

charge. Following engagement with stakeholders including the Kent Police Secure By Design team in helping to determine the preferred location it is not anticipated the site will encounter the difficulties of the old area.

- 2.3 Play provision in connection with housing provided under the Housing Act 1985 in the Mill Hill ward had been made in four locations (Elizabeth Carter Avenue, Leivers Road, Marlborough Road and Wilson Avenue). However, three of the existing sites were decommissioned when the play equipment reached the end of its life. The sites do not meet current national play area guidance when considering suitable locations for play and cannot be reopened for this use. The remaining play areas in the ward are located in Wilson Avenue (provided by the Council under Housing Act powers) and Cowdray Square (held under non Housing Act powers). However, the play equipment in Cowdray Square is reaching the end of its life and a new project is proposed to renew the equipment and replace the lost provision in the ward.
- 2.4 Although both areas of land are currently held under non-Housing Act powers it is proposed that the play areas will be provided in connection with housing accommodation and appropriate the land to be held for the purposes of Part II of the Housing Act 1985. As the Council own both assets it is only the statutory purpose for which these assets are held that would change.
- 2.5 The areas of land would be appropriated under Section 122(1) of the Local Government Act 1972, which provides that a council "...may appropriate for any purpose for which the council are authorised ... to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation...".
- 2.6 The land at Cowdray Square forms part of an open space and a notice of intention to appropriate the land will need to be placed for two weeks in a local newspaper in order to comply with section 122(2A) of the Local Government Act 1972. Any objections to the proposed appropriation will need to be considered before a decision can be made as to whether to proceed with the appropriation. It is recommended that the Director of Environment and Corporate Assets be authorised to consider any objections and to make the appropriation/or not as he considers appropriate.
- 2.7 As required by section 12 of The Housing Act 1985 Secretary of State consent has been requested and granted to provide and maintain the two play areas in connection with housing accommodation. Copies of the consent are shown in appendices 3 and 4.
- 2.8 It is therefore recommended that Cabinet appropriate the two areas of land shown on appendices 1 and 2 to be held for the purposes of Part II of the Housing Act 1985.

3. **Identification of Options**

- 3.1 Option 1: To do nothing.
- 3.2 Option 2: To support the proposals and appropriate the two areas of land to be held for the purposes of Part II of the Housing Act 1985.

4. **Evaluation of Options**

- 4.1 Option 1: This is not a recommended option as the play areas cannot be provided in connection with housing accommodation if the land is not appropriated to be held for housing purposes and this would have budgetary implications.
- 4.2 Option 2: This is the recommended option as it will allow the play areas to be held for the purposes of Part II of the Housing Act 1985 and be funded accordingly.

5. **Resource Implications**

The appropriation of non-housing assets to housing purposes requires Capital Financing Requirement (CFR) adjustments. The Council's Estate Valuation Manager has valued the land at £3,600 for Barwick Road and £2,300 for Cowdray Square.

6. **Corporate Implications**

- 6.1 Comment from the Section 151 Officer: Accountancy has been consulted and has no further comment. DL
- 6.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make.
- 6.3 Comment from the Equalities Officer: This report does not specifically highlight any equalities implications, however in discharging their responsibilities members are required to comply with the public sector duty as set out in section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15>
- 6.4 Other Officers (as appropriate): None received.

7. **Appendices**

Appendix 1 – Plan of Barwick Road, Dover proposed play area

Appendix 2 – Plan of Cowdray Square, Deal proposed play area

Appendix 3 – Secretary of State consent to provide and maintain Barwick Road play area under section 12 of the Housing Act 1985

Appendix 4 – Secretary of State consent to provide and maintain Cowdray Square play area under section 12 of the Housing Act 1985

8. **Background Papers**

Contact Officer: Rebecca Champion, Valuation Officer