

CABINET**Tuesday, 10th June, 2014**

Present:-

Councillor Burrows (Chair)

Councillors	Blank	McManus
	Gilby	Russell
	King	Serjeant
	Ludlow	

Non Voting	Brown	Huckle
Members	Hill	Martin Stone
	Hollingworth	

*Matters dealt with under Executive Powers

18 DECLARATIONS OF MEMBERS' AND OFFICERS' INTERESTS RELATING TO ITEMS ON THE AGENDA

Councillors Gilby and Hill declared a conflict of interest in Minute No. 20 as Members of the Planning Committee and left the meeting during consideration of this item.

Councillor Huckle explained that he had declared a conflict of interest in respect of Minute No. 20 at the meeting of the Planning Committee on 19 May, 2014 and had withdrawn from that meeting during consideration of the planning application in respect of this item.

19 APOLOGIES FOR ABSENCE

An apology for absence was received from the Chief Executive.

20 REPLACEMENT OF QUEEN'S PARK SPORTS CENTRE APPROPRIATION OF LAND AT QUEEN'S PARK ANNEXE (R320)

The Head of Environment submitted a report seeking authority for the appropriation of land at Queen's Park Annexe for the building of the proposed new sports centre to relocate and replace the existing Queen's Park Sports Centre.

On 29 January 2013 Cabinet had considered the feasibility study for Queen's Park Sports Centre, including consideration of a number of sites for the construction of the new centre, and had resolved (Minute 0187 (2012/13)) that a new sports centre be constructed to replace the existing Queen's Park Sports Centre and that in principle, the Queen's Park Annexe be selected as the preferred site for the new sports centre.

Extensive consultation on the proposed new sports centre had been undertaken with the public, user groups, equalities group, National Governing Bodies (NGBs) and wider stakeholders on the design and facility mix of the new centre and the potential future development of the Annexe site.

Queen's Park Annexe had been conveyed to the predecessor Council in 1905 for the purpose of being used as a public pleasure ground within the meaning of the Public Health Act 1875, with a covenant providing that 'no building shall be erected on the land hereby except such as may be necessary or convenient for the enjoyment of such land as a pleasure ground'. Similar covenants had also applied to the adjacent Queen's Park and the implications of the covenants had been considered when the existing sports centre had been originally constructed in 1968 and when the dry side extension had been added in 1984.

The existing Annexe site contained tennis courts, a bowling green, a redgra athletics track, a football pitch and a changing pavilion.

Advice had been taken from Queen's Counsel regarding the Covenant that applied to Queen's Park Annexe.

Section 122 of the Local Government Act 1972 gave statutory powers to a local authority to appropriate land for any purpose for which the authority was authorised to acquire land by agreement. The appropriation of land referred to a process whereby a local authority altered its purpose for holding that land, provided the land was no longer required for its original purpose.

The effect of appropriation would be to free the land from any trust arising by virtue of it being held in trust for the enjoyment of the public for the purposes of Section 164 of the Public Health Act 1875.

Section 237 of the Town and Country Planning Act 1990 provided that where a local authority had appropriated land for planning purposes the development of the land may override any third party rights enjoyed over the land, provided the development was done in accordance with planning permission. However, statutory compensation may be payable if appropriate.

The relevant powers under which the Council could acquire land for planning purposes were now contained in sections 226(1) and 227 of the Town and Country Planning Act 1990 and could be applied when either:

- (a) the authority considered that the appropriation would facilitate the carrying out or development, re-development or improvement on or in relation to the land; or
- (b) the land was required for a purpose which it was necessary to achieve in the interests of the proper planning of the area.

The appropriation in this case was being considered under Section 226(1)(a) above. A local authority must not exercise the power under paragraph (1)(a) of s.226 unless it considered that the development, re-development or improvement was likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the area.

As the land at Queen's Park Annexe was public open space, the Council would have to advertise its intention to appropriate the land over two consecutive weeks in a newspaper circulating in the local area (Section 122 of the Local Government Act 1972). Cabinet would then consider any representations received before reaching any final decision on appropriation.

The area of land to be appropriated, shown edged bold black on the plan attached as Appendix A to the report, was an area of 19,050m², including the former athletics track, football pitch and the associated terracing and changing rooms. The remainder of the site (including the tennis courts and bowling green), an area of 28,060m², would remain as a public pleasure ground and would be excluded from the area of land to be appropriated.

The area which was to be appropriated to planning uses was larger than the footprint of the proposed centre, in order to provide flexibility in terms

of working areas during construction and to accommodate the proposed expansion of the centre including car parking to fully meet future demand for swimming pools and sports halls in Chesterfield, should the Council's bid for additional funding from Sport England's Strategic Facilities Fund be successful.

In considering whether the land at Queen's Park Annexe was still required for its original purpose, as a public pleasure ground, the report referred to the Heritage Impact Assessment for the proposed new sports centre (attached as Appendix B to the report), the Assessment of Need undertaken as part of the planning application by Neil Allen Associates, independent sport strategic planning specialists (attached as Appendix C to the report) and the Council's draft Playing Pitch Strategy (PPS) (attached as Appendix D to the report).

Following consultation with Sport England regarding the planning application for the new sports centre at Queen's Park Annexe, a planning condition had been agreed to maintain current adult football pitch capacity in Chesterfield, pending formal adoption of the PPS, which had identified a surplus of adult pitches in the borough.

The Assessment of Need and the draft PPS had concluded that the current athletics and football facilities at Queen's Park Annexe were no longer required because they were no longer in regular use, were in poor condition and did not meet the current needs for multi pitch hubs. Furthermore the terraces and changing rooms had been subject to repeated vandalism.

In considering whether the appropriation of land at Queen's Park Annexe would facilitate the carrying out of development, redevelopment or improvement on or in relation to the land, the report referred to identified needs and evidence for the provision of good quality sport and leisure provision in the community, the lack of ability to meet customer expectations for modern sport and physical activity provision at the existing Queen's Park Sports Centre, and the identification of the Annexe site as a suitable site for a modern, more efficient replacement sports facility.

In considering whether the new sports centre on the Queen's Park Annexe site would contribute to the promotion of the economic, social and environmental wellbeing of the area, the report identified that the new sports centre would offer environmental benefits as it would use

significantly less energy than the current centre and would minimise water consumption.

The Heritage Impact Assessment of the proposed development had concluded that the impact of the existing Queen's Park Sports Centre had been to intrude into and degrade the quality of the western margin of the park and the views of the park from Boythorpe Road. The construction of a new sports centre on the Annexe and the demolition of the existing centre provided an opportunity for a comprehensive re-planning of the western margin of the park to achieve a major positive environmental impact in the appearance of the park.

From a social perspective the Annexe site was easily accessible by public transport due to its close proximity to the town centre, and the new centre would improve access to leisure facilities for disabled people and would also drive delivery of the Sport England Legacy Plan aimed at making a difference to participation and creating a sustainable sporting infrastructure for the future.

Overall the new sports centre would encourage more people to participate in sport and physical activity, also leading to economic benefits to the Council by increasing revenue, operating efficiency, and further reducing the subsidy that the Council incurred in operating the current Queen's Park Sports Centre facility.

In considering whether the proposed appropriation of the land at Queen's Park Annexe accorded with the provision of the development plan, the report referred to the report submitted to the Planning Committee meeting on 19 May, 2014 (attached as Appendix F to the report) in respect of the planning application for the proposed public sports facility on the Queen's Park Annexe (Planning Application Reference CHE/13/00635/FUL), confirming that the development was in accordance with local and national planning policy. The Planning Committee had resolved to approve planning permission, subject to planning conditions (Minute No. 3 (2014/15), and planning permission had been issued on 21 May 2014.

On 24 July, 2013 the full Council had considered a petition with over 1000 signatures against the building of a new sports centre on Queen's Park Annexe. Members had agreed to note the petition and that the petition and debate at full Council be taken into account by the Executive as part of its ongoing commitment to consult with the public, the sports national governing bodies and other stakeholders before coming to a final view on

the format of the Queen's Park Sports Centre replacement project (Minute No. 0011 (2013/14) attached as Appendix E to the report). The report included details of the consultation which had been undertaken on the proposal for development of the new sports centre and copies of the results of the consultation were attached as Appendices H, I and J to the report.

In response to questions, it was confirmed that the further consultation in respect of the appropriation of the land at Queen's Park Annexe would involve the Council advertising its intention to appropriate the land over two consecutive weeks in a local newspaper, allowing a two week period for responses, following which a further report would be submitted to Cabinet to consider any representations received before reaching any final decision on appropriation. It was also confirmed that the area which it was currently proposed to be built upon comprised approximately one third of the whole of the Queen's Park Annexe site.

Councillor Russell explained that he had not supported the approach which had been taken to improving the sports facilities at Queen's Park, and he therefore requested that his vote be recorded against the recommendations within the report.

RESOLVED -

- (1) That it be determined that the land shown at Appendix A to the report is no longer required for the purposes of a public pleasure ground under the Public Health Act 1875.
- (2) That the land shown at Appendix A to the report be appropriated for planning purposes.
- (3) That the intention to appropriate the land shown at Appendix A to the report be indicated pursuant to Section 122 of the Local Government Act 1972.
- (4) That consultation be authorised on the intention to appropriate the land in accordance with Section 122 of the Local Government Act 1972.
- (5) That a further report be prepared and that Cabinet considers any representations received and makes its final decision on whether or not to appropriate the land.

REASONS FOR DECISION

1. To confirm that the land is no longer required for the purposes for which it is currently held.
2. To establish an intention to appropriate the land under Section 122 of the Local Government Act 1972.
3. To enable preliminary consideration of whether or not the land should be appropriated for planning purposes under Section 237 of the Town and Country Planning Act 1990.
4. To enable public consultation to take place on any intention to appropriate.
5. To comply with the requirements of Section 122 of the Local Government Act 1972.
6. To enable the new sports centre to be constructed to improve the social, environmental and economic well being of the area.