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|  | <b>Assets, Regeneration and Growth Committee</b><br><br><b>8 September 2014</b>  |
| <b>Title</b>  | <b>Haldane Close N10 - Appropriation</b>   |
| <b>Report of</b>  | Lesley Meeks, Interim Assistant Director, Commercial Assurance, Procurement and Estates  |
| <b>Wards</b>  | Coppetts Ward  |
| <b>Date added to Forward Plan</b>   | N/A  |
| <b>Status</b>   | Public   |
| <b>Enclosures</b>   | Appendix A – Drawing Number 24377/3 Site Plan<br>Appendix B – Lease Plan of Electricity Transformer Site   |
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## Summary

Haldane Close is a Council owned residential estate situated between Cromwell Road and Hampden Road and is shown as Appendix A, drawing 24377/3 forming part of this report. The estate has a garage block which has access from Pembroke Road. In 1965 a small part of the garage block was sold to the then Eastern Electricity Board for the site of an electricity transformer and cable rights were granted over parts of the housing estate. Access to the transformer from Cromwell Road was granted along the centre of the garage block as shown shaded blue on the attached plan which is shown as Appendix B. The owner of the transformer site is the successor company of the Eastern Electricity Board, which is UK Power Networks, (UKPN) Newington House, 237 Southwark Bridge Road, London SE1 6NP

The garage block is unutilised, and on 24 June 2013 Cabinet Resources Committee resolved that Barnet Homes should progress the construction of much needed affordable homes on the subject garage block.

To enable the development of the site with a three-storey block of flats fronting Cromwell Road, with access to the rear of the development for car parking, it is planned to move the access way to the electricity transformer from the centre of the garage block to its western side. This new access way will give full access to the electricity transformer and the new affordable flats.

To enable the access rights of the electricity company to be moved from the centre of the site to its western boundary, authority is required to appropriate the site of the garage block from being held in the Council's Housing Revenue Account to planning purposes and to return it to its existing status of Housing Revenue Account land on completion of the development.

## **Recommendations**

- 1. That authority is granted to appropriate the site shown on drawing number 24377/3 to planning purposes to assist the building of new affordable homes in accordance with the planning permission for the site and to return it to its existing status of Housing Revenue Account land on completion of the development.**

### **1. WHY THIS REPORT IS NEEDED**

- 1.1 Without authority to appropriate the land for the purpose for which planning consent will be granted, the electricity company have it in their power to prevent the proposed development, insisting on their rights to pass and re-pass at all times and for all purposes down the centre of the site as shown on the attached plan, shaded blue. Subsequent to the development, the site should be returned to the Council's Housing Revenue Account to enable it to continue to benefit from that status.

### **2. REASONS FOR RECOMMENDATIONS**

- 2.1 To enable the development.

### **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 To agree a variation of the access way with the electricity company who own the electricity transformer site and have the right of way over the subject site. This course of action has been attempted but agreement has not been possible Because the company require to take a significant share of the development value of the site. As the site is not being sold by the Council, such a payment would add to the Council's cost of completing the scheme.

#### **4. POST DECISION IMPLEMENTATION**

- 4.1** The Council will utilise its powers under Section 237 of the Town and Country Planning Act 1990 (as amended) to appropriate the site for planning purposes.

#### **5. IMPLICATIONS OF DECISION**

##### **5.1 Corporate Priorities and Performance**

- 5.1.1** The Corporate Plan 2013-16 has a strategic objective to “promote responsible growth, development and success across the Borough”
- 5.1.2** The Council’s Estates Strategy 2011-2015 sets out our commitment to continually review the use of council assets so as to reduce the cost of accommodation year on year.

##### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1** Appropriation of the land will cause UK Power Networks (UKPN) to have its ability to enforce its right of way over the land to be converted into a right to be compensated for any actual loss which they suffer as a result of its right being overridden. As a suitable right of way is being provided to the electricity transformer from the public highway, it is not envisaged that any significant loss will arise. Any compensation theoretically payable to UKPN will be less the loss to the council should that part of the development not be built due to the presence of the existing right of way as currently claimed by UKPN. Thereby further reducing the chance of payment having to be made to UKPN.

##### **5.3 Legal and Constitutional References**

- 5.3.1** Barnet will utilise its powers under section 237 of the Town and Country Planning Act 1990 (as amended) to appropriate the site for planning purposes. The effect of this section is to convert UKPN’s right of way into a right to be compensated for any actual loss which UKPN suffers as a result of its right being overridden.
- 5.3.2** Section 19 of the Housing Act 1985 stipulates that an appropriation of HRA land comprising dwellings and appurtenant land to other purposes can only take place with the consent of the Secretary of State. Such an application will not be required as the subject land does not comprise or include dwellings.
- 5.3.3** Council Constitution, Responsibility for Functions, Annex A – the Assets, Regeneration and Growth Committee has responsibility for “Asset Management – all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.”

## **5.4 Risk Management**

- 5.4.1 The Council faces the risk of higher expenditure to vary the route of the right of way over the site if the property is not appropriated to planning purposes. The proposed course of action reduces this risk.

## **5.5 Equalities and Diversity**

- 5.5.1 Under the Equality Act 2010, the Council must have due regard to the need to: a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between those with a protected characteristic and those without; c) promote good relations between those with a protected characteristic and those without. The 'protected characteristics' referred to are; age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.
- 5.5.2 The proposal does not raise any issues under the Council's Equalities Policy and does not have a bearing on the Council's ability to demonstrate that it has paid due regard to equalities as required by the legislation. No immediate or later equality impacts are anticipated as a result of this proposal.

## **5.6 Consultation and Engagement**

- 5.7.1 None

## **6 BACKGROUND PAPERS**

- 6.1 None

## **7.1 PREVIOUS DECISIONS**

- 7.1 24 June 2013 Local Authority New Housing Programme. This paper considered the business case and sought approval for the funding and property arrangements for Barnet Homes to build new affordable homes on behalf of the Council. The Haldane Close site, the subject of this report, was included as a site for the provision of these new affordable homes.