

Meeting	Cabinet Resources Committee
Date	17 December 2012
Subject	Grahame Park Open Space
Report of	Deputy Leader of the Council / Cabinet Member for Resources & Performance
Summary	The grant of a drainage easement over parts of the Grahame Park Estate Open Space

Officer Contributors	Judith Ellis – Valuation Manager
Status (public or exempt)	Public
Wards Affected	Colindale
Key Decision	No
Reason for urgency / exemption from call-in	Not applicable
Function of	Executive
Enclosures	Appendix 1 – Easement Plan
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1. RECOMMENDATIONS

- 1.1 That the Committee approve the grant, by the Council, of a drainage easement in favour of Thames Water Utilities Limited (“Thames Water”), over parts of the Grahame Park Open Space and also authorise the entering into of a Water Industries Act 1991 Section 104 sewer adoption agreement with Thames Water.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Cabinet, 24 July 2006 (item 5) Grahame Park Regeneration Project. Decision 1: That approval be given to the Council to enter into a Principal Development Agreement with Choices for Grahame Park Limited (or subject to the approval of the Deputy Chief Executive in consultation with the Cabinet Member for Regeneration and Development, an alternative company within the Genesis Housing Group) and Paddington Housing Association for the Regeneration and redevelopment of Grahame Park area.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The regeneration of the Grahame Park Estate contributes to the delivery of the Corporate Plan 2012-2013 priority of a ‘successful London Suburb’ and the Sustainable Community Strategy 2010-20. Strategic objectives under the above include delivering sustainable housing growth, to support strong and cohesive communities and to ensure residents continue to feel that Barnet is a place where people from different communities get on together including through effective management of our regeneration programmes.
- 3.2 The Grahame Park Estate Regeneration also supports the corporate priority of ‘sharing opportunities, sharing responsibilities’. The new development will offer more choice by providing a number of different housing options such as shared equity, shared ownership etc to residents and those in the wider community.

4. RISK MANAGEMENT ISSUES

- 4.1 There are no policy considerations and officers do not anticipate significant levels of public concern as a result of the grant of the drainage easement. If the Council does not proceed with the grant of the easement, then, the timely delivery of the Grahame Park scheme may be jeopardised.

5. EQUALITIES AND DIVERSITY ISSUES

- 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.

- 5.2 The Regeneration of the Grahame Park area will make this part of the Borough a better place to live, leading to greater community cohesion in an area with a highly dense population.
- 5.3 The advertisement of the notice for two consecutive weeks in a local newspaper enables everyone within the borough an opportunity to make representations regarding the Council's intention to grant the sewer drain easement over parts of the Grahame Park Estate. The proposed disposal has been evaluated against the principles in the Equalities Policy and no adverse implications for any, specific, equalities group has been identified.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The costs related to the sewer drains and the easement will be paid for by Choices for Grahame Park Limited together with the Council's advertising and internal costs incurred in dealing with this matter.
- 6.2 There are no staffing or ICT implications.

7. LEGAL ISSUES

- 7.1 Section 123 of the Local Government Act 1972 provides that a (a) Council may dispose of land held by them in any manner that they wish but in doing so, the Council must obtain best consideration for the land and can only do otherwise with the consent of the Secretary of State or in cases of a short tenancy (i.e. less than 7 years).
- 7.2 In the Local Government Act 1972: General Disposal Consent (England) 2003, the Secretary of States provides Councils with general consent to dispose of a land otherwise than by way of a short tenancy, where, (a) the Council considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the promotion or improvement of economic wellbeing; social well-being; environmental well-being of the whole or any part of its area, or of all or any persons resident or present in its area; and (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 7.3 Section 123 of the Local Government Act 1972, places a duty on the Council to advertise the disposal of land that consists of or form part of an open space for two consecutive weeks in a newspaper circulating in the area in which the land is situated, and to consider any objections to the proposed disposal which may be made by the residents of the area.
- 7.4 A valuation has been undertaken of the value of the grant of the easement and the valuation report confirms that difference between the unrestricted value and the actual value is within the threshold allowed by the General Disposal Consent 2003.

8. CONSTITUTIONAL POWERS

- 8.1 Council Constitution, Part 3, Responsibility for Functions - paragraph 3.6 states the functions of the Cabinet Resources Committee which includes all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.
- 8.2 Council Constitution, Part 4, Management of Real Estate, Property and Land, states in paragraph 19 that all recommendations for approval of the sale price and other terms of disposal must contain a statement from the Chief Valuer or, if appointed, from suitably qualified external agents that the Council will obtain the best price which can reasonably be obtained or that there is approval through the General Consent or that the consent of the office of the Deputy Prime Minister has been obtained or will be sought to enable the disposal of the property to proceed as recommended.
- 8.3 Council's Constitution, Part 4, Management of Real Estate, Property and Land, Paragraph 7 (i) states "Whenever a decision is taken by the Executive or the relevant Director acting under delegated powers to advertise the possible disposal or appropriation of open space land, the Director or designated officer shall report the matter to the next relevant Area Environment Sub-Committee to enable it to decide whether it wishes to make representations to the Executive in relation to the disposal of the open space land".

9. BACKGROUND INFORMATION

Grahame Park Area Regeneration

- 9.1 In July 2006, Cabinet gave its approval for the Council to enter into a Principal Development Agreement (PDA) with Choices for Grahame Park Limited for the regeneration of the Grahame Park area. The PDA was executed on 30 January 2007.
- 9.2 As part of the on going works being carried out within the scheme, the Developer, Choices for Grahame Park Limited, is required to construct foul and surface water sewer lateral drains on land owned by the Council. As a result of this, the Council and the Developer would have to grant an easement over the sewer drain strip and also enter a Water Industry Act 1991 adoption Agreement with Thames Water Utilities Limited for the adoption of the sewer drains.
- 9.3 The strip of land over which the easement is to be granted that is owned by the Council is within the Grahame Park Estate and is part of Open Space land. Section 123(2a)b of the Local Government Act 1972 prevents the Council from granting an easement over open space land without first advertising its intention to grant such an easement for two consecutive weeks in a newspaper circulating in the area. advert has been placed.
- 9.4 The Council considers that grant of the Easement at a peppercorn rent is an integral part of the Grahame Park Regeneration scheme and therefore, will contribute to the achievement of the promotion or improvement of economic wellbeing; social well-being and environmental well-being of the whole or any part of its area, or of all or any persons resident or present in its area.

Section 123 (2A) Notices

- 9.5 In accordance with the provisions of Section 123(2A) of the Local Government Act 1972, notice of the Council's intention to grant a sewer drainage easement has been published in *The Press* for two consecutive weeks. The advert was placed in the local newspaper on the 4 of October giving people 21 days from the first publication to make any representations about the proposal. Thus the closing date for receipt of representations was 25 October 2012.
- 9.6 Copies of the notice and the accompanying map were available for inspection at the Grahame Park Housing Office, Grahame Park Library, Hendon Library and North London Business Park.
- 9.7 Also, in accordance with the provisions of the Constitution, a report was presented to the Hendon Area and Environment Committee, requesting that it should make any representations that it may wish regarding the intended disposal, to the Cabinet Resources Committee.
- 9.8 The date for the public to make representations or objections has passed and no objections or representations were received from members of the public.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Cleared by Finance (Officer's initials)	MC/JH
Cleared by Legal (Officer's initials)	TE