

## SSA EQUALITY IMPACT AND NEEDS ANALYSIS

<b>Directorate</b>	<b>Housing and Regeneration</b>
<b>Service Area</b>	<b>Housing Strategy and Development</b>
<b>Service/policy/function being assessed</b>	<b>Housing Development</b>
<b>Which borough (s) does the service/policy apply to</b>	<b>Wandsworth</b>
<b>Staff involved</b>	<b>Richard Goodman – Principal Council Development Officer</b>
<b>Date approved by Directorate Equality Group (if applicable)</b>	<b>Not applicable</b>
<b>Date approved by Policy and Review Manager</b> All EINAs must be signed off by the Policy and Review Manager	<b>21<sup>st</sup> May 2019</b>
<b>Date submitted to Directors' Board</b>	<b>6<sup>th</sup> June 2019</b>

### SUMMARY

This EINA is intended to support the recommendations being made to the Finance and Corporate Resources Overview and Scrutiny Committee (FCROSC) at its meeting to be held on 4<sup>th</sup> July 2019 to appropriate the Land and Garages adjacent to 156-232 Whitlock Drive, SW19 (West Hill Ward), in order to facilitate development of 9 new homes for social rent, forming part of the Council-led 1,000 new homes development programme.

The number of residents who will be affected by the appropriation of the site in this context is relatively small compared to other Council-led development sites and larger scale regeneration schemes in the Borough. In addition, the research on the impact of appropriation of land specifically on groups with protected characteristics is extremely limited. However, basic research shows that some protected groups may be more adversely affected by resulting development of neighbouring land than others due to their relationship with the home and surrounding area, particularly groups who are more housebound than others or require the home as a protective space more than other groups.

Nevertheless, the Housing Development Team has undertaken detailed consultation and engagement as part of the pre-planning discussions with neighbouring residents and key stakeholders, in addition to the subsequent statutory planning consultation undertaken by the planning authority. The Council feels that because of this, as much allowance as is possible has been made to obtain resident's views, feedback, suggestions and objections in respect of the development and steps have duly been taken to negotiate agreements where possible to allow interference with any relevant rights and interests affecting the site. Whilst this has in the main been successful, there remain some relevant rights and interests that officers have been unable to negotiate for release and may impact on the Council's ability to proceed with development. Consequently, appropriation of the site for planning purposes is recommended by officers.

## 1. Background

The Housing Development team are seeking permission from the Finance and Corporate Resources Overview and Scrutiny Committee (FCROSC) to apply to the Secretary of State for Communities and Local Government (MHCLG) to appropriate the Land and Garages adjacent to 156-232 Whitlock Drive, SW19 (West Hill Ward) for planning purposes pursuant to Section 122 of the Local Government Act 1972 where section 203 of the Housing and Planning Act 2016 would be engaged to facilitate the development of the site which forms part of the Council-led 1,000 new home development programme. The land is owned freehold by the Council and being developed to provide 100% social rented housing.

Planning permission for the development was granted for development on 23<sup>rd</sup> August 2018.

The reason that the Council is seeking to appropriate the site (and the basis for this EINA and accompanying report) is because despite attempts to negotiate release of actionable relevant rights and interests impacting development, a number of such rights and interests remain, namely Rights of Light (ROL) and non-derogation lease rights, with the potential remedy being injunctive relief, i.e. claimants could potentially seek orders through the courts to prevent the development from taking place or halt construction, in turn incurring significant costs and delay to development of new affordable housing.

The number of residents who will be affected by the appropriation of the site in this context is relatively small compared to other Council-led development sites and larger scale regeneration in the Borough. More specifically:

- No of households with actionable ROL: 9
- No of households whose specific lease rights may be affected by the appropriation: 1
- No of households with both actionable ROL and lease rights: 1

Total No: 11

In total, the Council is proposing to build 9 new dwellings on the site, all of which will be general needs, low cost rented housing to be owned and managed by the Council.

An issue facing this EINA is that there are no direct studies (academic or otherwise) which look at the effect of appropriation of sites in respect of potential ROL claims and/or lease rights on individuals with protected characteristics. Therefore, we have had to make allowances for this where necessary using secondary data and further on the basis that the Council has previously sought extensive legal advice on appropriation processes and has taken the necessary steps to deal with any relevant rights and interests through extensive consultation, direct approaches and negotiation.

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**2. Analysis of need and impact**

*How does interfering with relevant rights and interests, particularly ROL and/or lease rights affect individuals with protected characteristics?*

<b>Protected group (PG)</b>	<b>Findings</b>
<b>Age</b>	It is possible that there is the potential for more elderly individuals who are likely to be more housebound ( <a href="#">Davis and Fox, 2006</a> ) or invested in a local area (property as an investment for pension or late stages of life tenancy) to be more concerned regarding changes to ROL and lease rights. An appropriation which permits interference with such rights and interests to allow development to proceed without threat of injunction could cause grievance with this group.
<b>Disability</b>	Individuals with physical or mental impairments could be more likely to be housebound than those without ( <a href="#">Messant, Cooke and Long, 2009</a> ). Therefore, any impact on lease rights or ROL could lead to this group being disproportionately more disempowered than others.
<b>Gender (sex)</b>	n/a – no evidence
<b>Gender reassignment</b>	Individuals that identify as Trans or have undergone, undergoing or may be considering gender reassignment surgery are more likely to receive public abuse than those who are not ( <a href="#">Lombardi, Wilchins, Priesing Esq and Malouf, 2008</a> ). Therefore, the ability to take steps to object to or prevent development might be more important to this group than other groups. This would be because this group would perhaps place a greater importance on their home as a protective or safe space, and any processes such as interference with lease rights or ROL which diminish this may be more important than otherwise.
<b>Marriage and civil partnership</b>	n/a – no evidence
<b>Pregnancy and maternity</b>	Couples or individuals who are pregnant or looking after young children may have a more vested interest than most in seeking to object to or prevent neighbouring development. Interference for example with ROL in addition to the general disturbance and disruption caused by development nearby may be felt more significantly by this group due to concerns regarding the wellbeing of small children, or heavily pregnant women who may be more housebound than others.
<b>Race/ethnicity</b>	n/a – no evidence
<b>Religion and belief, including non belief</b>	n/a – no evidence
<b>Sexual orientation</b>	n/a – no evidence
<b>Across groups i.e older LGBT service users or bme young men</b>	n/a – no evidence

**Data gaps.**

Data gap(s)	How will this be addressed?
The number of users/individuals is too small and infrequent. It is therefore not possible to take large scale academic studies as considered above. We do not have specific equalities data on the resident's connected to this site as described above.	As further negotiations and consultation is carried out with impacted parties, this assessment will be updated as necessary, on the basis of any relevant data that becomes known.

**3. Impact**

Protected group	Positive	Negative
<b>Age</b>	No evidence available to determine positive impacts. In addition, according to <a href="#">ONS data (2017)</a> , the local area of the development is more likely to be younger as a whole relative to the Borough or England. In addition, the population of the local area contains far fewer retired individuals compared to the Borough or England. ( <a href="#">ONS, 2011</a> )	As explored in section 2, there is potential for more elderly impacted residents to feel disempowered by the decision to appropriate the site. However, the Council has consulted extensively with all neighbouring residents and relevant parties who were deemed have actionable rights or interests that might be interfered with through development and has further contacted those residents in respect of negotiating compensation for release of such rights. For more information on this, see section 5.
<b>Disability</b>	No evidence available to determine positive impacts. The population of the local area in respect of this group is marginally higher compared to Wandsworth as a whole. ( <a href="#">ONS, 2011</a> )	As explored in section 2, there is potential for this group to feel disempowered by this action. However, the Council has consulted extensively with all neighbouring residents and relevant parties who were deemed have actionable rights or interests that might be interfered with through development and has further contacted those residents in respect of negotiating compensation for release of such rights. For more information on this, see section 5.
<b>Gender (sex)</b>	No evidence available.	No evidence available.
<b>Gender reassignment</b>	No evidence available to determine positive impacts. It is difficult to estimate the population of transgender individuals in the Borough as there is no formal data set for this however according to the	As explored in section 2, there is potential for this group to feel disempowered by this action. However, the Council has consulted extensively with all neighbouring residents and relevant parties who were deemed have actionable rights or interests that might be interfered

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	<a href="#">Government Equalities Office (2017)</a> there is a higher proportion of transgender people living in London than elsewhere in the UK.	with through development and has further contacted those residents in respect of negotiating compensation for release of such rights. For more information on this, see section 5.
<b>Marriage and civil partnership</b>	No evidence available.	No evidence available.
<b>Pregnancy and maternity</b>	No evidence available to determine positive impacts. <a href="#">Statista (2016)</a> data shows that Wandsworth Borough has the 11 <sup>th</sup> highest birth rate of all London Boroughs.	As explored in section 2, there is potential for this group to feel disempowered by this action. However, the Council has consulted extensively with all neighbouring residents and relevant parties who were deemed have actionable rights or interests that might be interfered with through development and has further contacted those residents in respect of negotiating compensation for release of such rights. For more information on this, see section 5.
<b>Race/ethnicity</b>	No evidence available.	No evidence available.
<b>Religion and belief, including non belief</b>	No evidence available.	No evidence available.
<b>Sexual orientation</b>	No evidence available.	No evidence available.

#### 4. Actions

The table below summarises the main actions that will be required in monitoring the anticipated effects on protected groups of a decision to appropriate the site for planning purposes.

No actions necessary, as set out in the accompanying report to the FCROSC, Officers have consulted widely with residents for this specific development both in respect of the impact of development generally (pre-planning) and statutory consultation (during the planning process). In addition further more specific and targeted consultation following professional impact assessments has been undertaken with individuals who's lease rights and ROL may be affected to an actionable degree. Section 5 provides further information in respect of these processes and the outcomes.

#### 5. Consultation

For this site, residents of the Edgecombe Hall Estate (the estate where the development site is situated) have received four separate communications from the Council regarding the development of this site. Each communication invited residents to comment on the Council's plans for the site.

November 2015 – a letter was sent to residents informing them of the Council's intentions to make a recommendation to the Housing and Regeneration Overview and Scrutiny Committee on 17<sup>th</sup> November 2015 to develop the site to provide affordable rented accommodation subject to legal and financial due diligence and resident consultation.

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April 2016 – a letter was sent to residents inviting comment on the initial proposals for the site as part of the pre-planning discussions routinely undertaken by the Housing and Regeneration Department with residents in respect of development proposals. This included a brochure with illustrations of the detailed proposals.

June 2018 – This was a general update letter, informing residents on the Department's latest intentions for the site, and informing them that the proposed scheme had been submitted to the Planning Department for determination, during which residents would be afforded further opportunities to make representations on the plan proposals as part of the statutory consultation. This approach to residents provided further opportunities to comment on the proposals.

May – June 2018 – Neighbouring residents received an additional letter from the Planning Service providing details of the planning submission and an opportunity for those residents to make representations on the plan proposals as they wished.

In summary, the pre-planning consultation process yielded very few responses from residents (less than half a dozen) with the main concerns being parking stresses and proximity of the development.

The formal planning application received two formal objections which were assessed accordingly by the Planning Applications Committee in their meeting on 22<sup>nd</sup> August 2018, during which planning approval was recommended (and subsequently granted on 23<sup>rd</sup> August 2018).

In support of the planning submission, an extensive report into daylight and sunlight impacts was undertaken and reviewed accordingly by the Planning Service. The Daylight and Sunlight Assessment addressed the levels of natural daylight and sunlight levels of adjoining properties and found that the majority of properties in all existing blocks would retain daylight and sunlight levels compliant with both 'No sky line' (NSL) and 'Vertical sky component' (VSC) guidance.

In addition, since the site was first identified for development Officers have made direct approaches to those leaseholders with lease rights impacting development, offering terms for negotiation to release such rights and further communications have been sent to residents as set out clearly in the accompanying report to the Committee.

GL Hearn were further appointed by the Council to contact and negotiate with properties which have been specifically identified to be at risk of being affected by a reduction in Right of Light and/or interference with lease rights as a result of this development.

Additionally, site notices informing local residents of the Council's intention to appropriate the site were also placed on the site on 25<sup>th</sup> February 2019 to which no responses have been received by the Council.

Despite attempts to contact potentially affected parties and relevant site notices there are currently no ongoing negotiations in respect of this matter.

**23<sup>rd</sup> May 2019**