

Report title	Appropriation of the residential property at St Ann’s Hill Park Open Space to the general fund and amendments to the letting terms previously approved by the Community Services Committee.
Report author	Alex Williams Corporate Head
Department	Assets & Regeneration
Exempt?	No

<p>Purpose of report:</p> <ul style="list-style-type: none"> • To resolve
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<p>Synopsis of report:</p> <p>To make a declaration that a residential property forming part of the St Ann’s Hill Park Open Space, comprising approximately 655 square metres and shown shaded edged yellow on the plan at Appendix A (“the Lodge at St Ann’s Hill”), is surplus to requirements and give authority to appropriate the Lodge at St Ann’s Hill to the general fund purposes under the provisions of Section 122(1), (2A) Local Government Act 1972 with the intention of facilitating leasing the Lodge at St Ann’s Hill on residential ASTs as previously approved by Community Services Committee on 12th November 2020. To amend the letting terms previously approved by Community Services Committee on 12th November 2020.</p>
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<p>Recommendation(s):</p> <ul style="list-style-type: none"> i) The intention to appropriate the use of the Lodge at St Ann’s Hill from open space to general fund be formally advertised. ii) Any objections to such appropriation be reported to the Committee. <p>If no objections to such appropriation are received, then Officers be authorised to complete the appropriation process without reporting back to the Committee and a Memorandum of Appropriation be prepared and signed by the Corporate Head of Law and Governance to record the appropriation of the Lodge at St Ann’s Hill to the general fund; and</p> <ul style="list-style-type: none"> iii) To approve the changes to the Heads of Terms
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1. Context and background of report

1.1 Within and close to the entrance to St Ann’s Hill Park is a small residential property called the Lodge which had been occupied by Council parks staff since 1975. Since the last such member of staff vacated the property in 2017, it has stood empty.

- 1.2 On 12th November 2020 an update was provided to Community Services Committee on the letting of the Lodge to RBCI for onward private rental. The CSC resolved that an application be made to the Charity Commission for a scheme and/or an order consenting to the letting arrangement.
- 1.3 Following the subsequent application to the Charity Commission, the Charity Commission advised officers that in their opinion, the land at St Ann's Hill Park open space is not held on charitable trust. Officers have reviewed that opinion and are content to agree with the conclusion of the Charity Commission. The land is therefore held by the Council as open space land, subject to the statutory trusts under Open Space legislation.
- 1.4 Because the Lodge is part of an open space, the following steps must be taken to facilitate the lease to RBCI of the Lodge for a residential use which is not ancillary to the public recreation purposes of the open space of which it forms part:
 - 1.4.1 declare the Lodge land as not suitable for use for Open Space purposes and therefore surplus to requirements.
 - 1.4.2 use the appropriation powers under section 122(1) Local Government Act 1972 to appropriate the Lodge at St Ann's Hill to planning purposes; and
 - 1.4.3 use the appropriation powers under section 122(1) Local Government Act 1972 to appropriate the Lodge at St Ann's Hill to the general fund.
- 1.5 Minor amendments to the approved form of the leases to be granted are also set out in the report for consideration.

2. Report and, where applicable, options considered and recommended

- 2.1 If the Local Authority decides that it needs to transfer land from one purpose to another because the land is no longer required for the initial purpose for which it was acquired e.g. land acquired to deliver refuse collection services is no longer needed for that purpose, but it could be used community services purposes, then it may *appropriate* the land under section 122(1) Local Government Act 1972. Appropriation is in essence changing what land is used for. Historically Local Authorities would maintain internal ledgers in which they would record their land holdings and the purpose for which the land was held. The exercise of appropriation would transfer the land from one ledger to another.
- 2.2 If the Council wishes to appropriate land, it must be satisfied that the provisions of section 122(1) Local Government Act 1972 are met and that the land is no longer required for the purposes for which it was held immediately before appropriation.
- 2.3 Before any final decision to appropriate can be made, section 122 (2A) Local Government Act 1972 must be complied with. This provides that a Council cannot appropriate under section 122(1) any land consisting of or forming part of an open space unless before appropriating the land it advertises its intention to do so for two consecutive weeks in a newspaper circulating in the area in which the land is situated and considers any objections to the proposed appropriation which may be made.
- 2.4 If approved by Committee, the following matters therefore need to be considered and determined before the Lodge at St Ann's Hill can be appropriated to the General Fund:

a. Identification of the purpose for which the Lodge at St Ann's Hill is held;

The Lodge is part of the St Ann's Hill Park open space land which is held on trust by the Council for the purposes of providing a public recreation ground. The Lodge was occupied as a residential dwelling for the accommodation of the Council's parks staff between 1975 and 2017. The most recent occupier of the Lodge left in late 2017.

b. Why the Lodge at St Ann's Hill is no longer required for that purpose;

There has been no requirement for a member of grounds maintenance staff to live on site since the Lodge became vacant in 2017.

The Lodge is a small residential property not suited to any planned or feasible use ancillary to the purpose of the St Ann's Hill Park land as a public recreation ground.

In addition, the Lodge is not considered fit for general public access due to changes in level at the front door and throughout, making it inaccessible to those with limited mobility and also increasing the risk of trips and falls. This is not an issue if it were to be a private home, as the resident would have chosen the property in full awareness of the layout and their ability to manage the steps.

c. Why the Lodge at St Ann's Hill is required for the new purpose;

Whilst the Lodge remains vacant it will need maintenance and incur other costs, which will be a burden on the Council meanwhile the Lodge generates no income to cover the cost of its repair.

An analysis of the following options was carried out prior to the 15th January 2019 Community Services Committee – social rental, sale and private rental.

Social rent was discounted as an option by Housing colleagues due to the cost of the refurbishment and the remote location, making the use unviable for their service.

Selling the Lodge would provide a capital receipt but would cause the long-term issue of future funding once the receipts from the sale are extinguished.

Private rental would produce a long-term sustainable income with the benefit of capital appreciation allowing flexibility for potential sale in the future.

The rationale as set out above has not changed since the report given to the Community Services Committee in November 2020 and remains sound. For this reason, this is still the option being recommended by Officers.

d. Consideration of any objections received to the newspaper advertisements.

Before any final decision to appropriate can be made, section 122 (2A) Local Government Act 1972 must be complied with. This provides that a Council cannot appropriate under section 122(1) any land consisting of or forming part of an open space unless before appropriating the land it advertises its intention to do so for two consecutive weeks in a newspaper circulating in the area in which the land is situated and considers any objections to the proposed appropriation which may be made.

Any objections received in writing will be verbally reported at Committee.

- 2.5 If so resolved, the Council will be advertising its intention to appropriate the Lodge at St Ann's Hill in the Surrey Advertiser newspaper on Friday 28th June 2024 and Friday 5th July 2024,

requesting that any objections should be submitted in writing by close of business on Friday 12th July 2024.

Changes to Heads of Terms for Letting

- 2.6 Appendix B shows the original wording for the proposed letting to RBCI and the Assured Shorthold Tenancy, with tracked changes for the two minor amendments being proposed.
- 2.7 Firstly that the rent under the AST be a 'market rent' as opposed to a set amount that was appropriate in 2019 but may no longer be considered a market rate, and it provides flexibility over the term of the RBCI Head Lease to keep the rent up to date with market conditions.
- 2.8 Secondly the term of the AST be changed to 1 year. This is a standard AST term and consistent with RBCI's standard operating procedures.

3. Policy framework implications

- 3.1 The recommendations reflect good estate management practice and once in the general fund the property will be managed in accordance with the adopted Asset Management Strategy and Policies.

4 Resource implications/Value for Money

- 4.1 The current estimated expenditure for the vacant property is £3,775 per annum, not including planned preventative maintenance, statutory compliance, landscaping or reactive repairs.

Council Tax	£3,408.93
Building Insurance	£100.55
Utilities	£265.20
	£3,774.68

- 4.2 If the Lodge is appropriated, the proposed letting would generate the following cashflow for the general fund:

	2024/25	2025/26	2026/27	2027/28	2028/29
Income	10,800	21,600	21,600	21,600	21,600
<i>Less management fee 10%</i>	-720	-2160	-2160	-2160	-2160
<i>Less building insurance premium</i>	-100.55	-100.55	-100.55	-100.55	-100.55
<i>Less estimated letting costs</i>	-150	-0	-150	-0	-150
<i>Less maintenance</i>	-100	-200	-0	-200	-0
<i>Less landscaping</i>	-300	-150	-150	-150	-150
Estimated net contribution to general fund	9,429.45	18,989.45	19,039.45	18,989.45	19,039.45

5. Legal implications

- 5.1 All legal implications are contained in the body of the report.

6. Equality implications

- 6.1 None

7. Environmental/Sustainability/Biodiversity implications

7.1 None

8. Risk Implications

- 8.1 Failure to proceed with appropriation of the Lodge will result in the property continuing to be vacant and unused. A letting or use other than the current recreational purpose will be prohibited. As a result, costs of at least £3,775pa will continue to be incurred, not including any maintenance.
- 8.2 A vacant property is likely to deteriorate without ongoing maintenance, turning what might be ongoing minor revenue costs into a capital requirement for major repairs at a future date.
- 8.3 From 1 April 2025, the Council Tax empty homes premium for this property will raise the Council Tax to 200% (£6,817.86pa). This policy was purposefully delayed to allow steps to be taken to ensure empty homes could be put back into use during 2024.

9. Timetable for Implementation

- 9.1 If the officer's recommendations are adopted by members, the intent to appropriate will be advertised as set out in 2.4 above, any objections will be reviewed and reported verbally to Committee and if no objections to such appropriation are received then Officers be authorised to complete the appropriation process without reporting back to the Committee and a Memorandum of Appropriation be prepared and signed by the Corporate Head of Law and Governance to record the appropriation of the Lodge at St Ann's Hill to the general fund.

10. Conclusions

- 10.1 The Lodge at St Ann's Hill will provide a single residential dwelling and generate income with which to maintain the property and pay into the general fund. Appropriation to the general fund is required to enable it to be used for residential letting.

11. Background papers

- 15th January 2019 Community Services Committee agenda pack and minutes
- 28th March 2019 Community Services Committee agenda pack and minutes
- 12th November 2020 Corporate Management Committee agenda pack and minutes

12. Appendices

- Appendix A - Plan of the Lodge
- Appendix B - Terms of the Letting to RBCI