Report to Chief Executive

Appropriation of land for Planning Purposes for land at Southlink, St Mary's.

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Report Author:
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Reason for Decision

The purpose of this report is to utilise powers under S122 of the Local Government Act 1972 to appropriate the land for planning purposes at Southlink, Oldham, to facilitate its development by Vistry Partnership who were approved as the Council's preferred developer by Cabinet in October 2024.

Under the Council's Property Protocols decisions relating to the appropriation of land are made in two stages. The first stage report – approved in August 2026 and attached at Appendix 1, authorised the in-principal appropriation of the land for Planning purposes, subject to the advertising in an appropriate publication of the proposal and allowing time for objections.

This second stage report recommends appropriation and notes that no objections have been received following the 4-week statutory consultation period.

Recommendations

It is recommended that following the Council authorises the proposed appropriation for planning purposes in respect to the Council owned land at Southlink, Oldham (as shown edged red in Appendix Two of the report) in accordance with the provisions of s122 of the Local Government Act 1972.

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1 Background

1.1 During the course of de risking the site prior to disposal the purchaser has identified that the land proposed to be sold is subject to rights in favour of various adjoining properties on Southlink Business Park. It is not thought that any of those rights are exercised over the land being sold and that they were granted on the basis that the Business Park may expand.

1.2 The purchaser requires the rights to be extinguished as express release of the rights could be a long process with the owners of the properties who benefit from the rights. Appropriation of the rights by statutory means is considered the most efficient way of extinguishing the rights. Appropriation would be under the Local Government Act 1972.

1.3 The power contained in Section 122 of the Local Government Act 1972 effectively converts any right of way into a right to compensation which may arise from the interference with such rights, it also removes the potential for excessive financial claims and most importantly, it removes the potential for such owners or occupiers to frustrate the development by obtaining an injunction to prevent interference with their rights.

2 Current Position

2.1 Under the Council's Property Protocols decisions relating to the appropriation of land are made in two stages. The first stage report – approved in August 2026, authorised the in-principle appropriation of the land for Planning purposes, subject to the advertising in an appropriate publication of the proposal and allowing time for objections.

2.2 The intention to appropriate was advertised in the Manchester Evening News on 28th September 2026 and 12th October 2026. No objections were received.

2.3 Following the appropriation, Vistry Partnership will complete the purchase of the site to construct 147 affordable homes for First Choice Homes Oldham. The scheme will deliver 125 homes for Social Rent, 11 for Shared Ownership and 11 Rent to Buy with 97 apartments and 50 houses. All homes are being constructed to the low carbon 'Future Homes Standard'.

2.4 Full Planning Permission **(FUL/355201/25)** was granted in September 2026 and it is anticipated that the full construction programme will commence in early 2027.

3. Options/Alternatives

3.1 Option 1:

Not to utilise the powers contained in Section 122 of the Local Government Act 1972. This option is not recommended as it would result in long delays

in delivering the proposed new homes.

3.2 Option 2:

To satisfy Vistry Partnership in terms to enable the timely development of new homes to be delivered, it is proposed that the Council appropriates the land shown edged red on the plan attached in Appendix 1 for planning purposes in accordance with Section 122 of the Local Government Act 1972.

4 Preferred Option

4.1 Option 2 - It is considered preferable for the Council to utilise its powers under Section 122 of the Local Government Act 1972 in respect to the site shown edged red on the attached plan.

5 Consultation

5.1 Ward Members were consulted on the disposal of the site to Vistry and were fully supporting of this decision. This report will be shared with the Corporate Property Board.

6 Financial Implications

6.1 It is not currently anticipated that there will be any compensation claims to the Council arising from the appropriation of the land.

6.2 If there are any successful compensation claims they will need to be met from within the existing Place revenue budget.

(James Postle)

7 Legal Implications

7.1 Under the Land and Property Protocol the Council is empowered to appropriate land for its statutory purposes by way of statute.

7.2 Section 122 of the Local Government Act 1972 provides that a principal council may appropriate for any purpose for which the council are authorised by this or any other enactment to acquire land by agreement any land which belongs to the council and is no longer required for the purpose for which it is held immediately before the appropriation; but the appropriation of land by a council by virtue of this subsection shall be subject to the rights of other persons in, over or in respect of the land concerned. The key legal test is whether the land is no longer required for its existing purpose. In determining this the council will need to carry out a balancing act to determine if the public need for the existing use of the land can be adequately met by other facilities or by replacement facilities.

7.3 Appropriation of land for planning purposes means the appropriation of it for purposes for which land could have been acquired under section 226 of the Town and Country Planning Act 1990 i.e. if the Council think that the acquisition (appropriation) will facilitate the carrying out of development, redevelopment or improvement (including regeneration) on or in relation to the land and the Council

think that the development redevelopment or improvement (including regeneration) is likely to contribute to the achievement of any one or more of the following objects – (a) the promotion or improvement (including regeneration) of the economic well-being of their area (b) the promotion or improvement (including regeneration) of the social wellbeing of their area (c) the promotion or improvement (including regeneration) of the environmental wellbeing of their area.

7.4 In summary, it has been determined that the statutory test has been passed, and the Council is able to confirm that the land is no longer required for the purpose for which it was held immediately before the appropriation.

7.5 The report notes that no objections were received following the advertisement authorised by the first stage report

7.6 This report is a second-stage report.

7.7 The author of the report has confirmed continued compliance with the Council's Land and Property Protocol.

(Rebecca Butterworth, Solicitor)

8 **Equality Impact, including implications for Children and Young People**

8.1 Not Applicable

9 **Key Decision**

9.1 Yes

10 **Key Decision Reference**

11.1 KDD-26-53

12 **Background Papers**

12.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents which would disclose exempt or confidential information as defined by the Act.

13 **Appendices**

13.1 Appropriation of land for Planning Purposes for land at Southlink, St Mary's – August 2026.

13.2 Red line Plan of Council owned land.