

OFFICER DECISION RECORD

For staff restructures, please also complete an RA1 form to update the HR Portal. This is attached at Annex 2.

Decision Ref. No:

RE18 0077

Box 1

DIRECTORATE: Regeneration and Environment

DATE: 21st March 2018

Contact Name: Jayne Rowland-Johnson

Tel. No.: 01302 737982

Subject Matter: To agree the transfer of Woodland on the former colliery site, Bentley, from Homes Communities Agency (HCA) to DMBC

Box 2

DECISION TAKEN:

To transfer woodland areas into DMBC ownership following the completion of new build by HCA.



Box 3**REASON FOR THE DECISION:**

Planning permission was granted on the 30th June 2010 ref 07/03241/REM and 07/03226/REMM for new builds on the former Bentley Colliery Site. As part of this agreement two parcels of woodland would transfer to DMBC located on The Avenue and Arthur Street. A paper produced by Communities outlines the specific spend of S106 monies relating to this development. (see Appendix one)

Following consultation the S106 monies for these schemes were allocated to recreational facilities in the wider Bentley area as per Planning Permission 97/3515/P. No monies allocated to the woodland sites.

Unfortunately no work has been undertaken to these woodlands as part of the housing build and no S106 monies have been allocated for future maintenance of the sites. Street Scene will absorb all future maintenance costs associated with the 2 sites.

The woodlands will form part of DMBC's tree stock asset and future management will be in line with the Council's Tree Policy. The sites will be beneficial to the health and wellbeing of residents of the area and will ensure a biodiversity corridor is maintained and enhanced with links to adjoining sites, thus enhancing the environment within the Bentley area.

Box 4**OPTIONS CONSIDERED & REASONS FOR RECOMMENDED OPTION:**

If other options were considered, please specify and give reasons for recommended option

Option 1 – Do nothing. This is not an option available to Street Scene as per agreement of 2010.

Option 2 – Approve the transfer of land from HCA as per attached report. Street Scene to absorb future maintenance cost to enhance the woodland scape within the Borough of Doncaster.

Box 5**LEGAL IMPLICATIONS:**

Under S.120 of the Local Government Act 1972 local authorities have a statutory power to acquire any land inside or outside its administrative area for the purpose of its functions or for the benefit, improvement or development of their areas.

Name: Rachel Pritchard **Signature:** _____ **Date:** 23.3.18
Signature of Assistant Director of Legal and Democratic Services (or representative)

Box 6**FINANCIAL IMPLICATIONS:**

There is no additional funding or S106 monies allocated for the maintenance of the Woodlands. Management of site will be carried out by Street scene from existing budgeted resources and would be included in the Tree and Woodland Management programme.

Name: T Edlin Signature: Date: 18-04/18

**Signature of Assistant Director of Finance & Performance
(or representative)**

Box 7**HUMAN RESOURCE IMPLICATIONS:**

There are no immediate HR implications arising from the approval to the transfer woodland areas into DMBC ownership, however, any future changes that impact on the workforce will require HR engagement and would require separate approval.

Name: **David Knapp** Signature: Date: **22/03/2018**

Signature of Assistant Director of Human Resources and Communications (or representative)

Box 8**PROCUREMENT IMPLICATIONS:**

There are no direct procurement implications associated with this report

Name: **S Duffield** Signature: Date: **22/03/18**

**Signature of Assistant Director of Finance & Performance
(or representative)**

Box 9**ICT IMPLICATIONS:**

There are no ICT implications associated with this decision.

Name: Peter Ward (Governance & Support Manager)

Signature: **Date:** 28/03/18

Signature of Assistant Director of Customers, Digital & ICT (or representative

Box 10

ASSET IMPLICATIONS:

The proposal outlined in this Officer Decision Record represents the acquisition of new land assets for the Council. The land will transfer to the Council at nil consideration, but nonetheless will require to be included in the Council's asset register upon acquisition, and thereafter be valued in accordance with capital accounting regulations

Name: Gillian Fairbrother (Principal Property Surveyor)

Signature: **Date:** 21st March, 2018

**Signature of Assistant Director of Trading Services and Assets
(or representative)**

Box 11

RISK IMPLICATIONS:

To be completed by the report author

To withdraw from transferring this land at this stage would go against the decision made in 2011 via a Cabinet Report for the transfer from Homes and Communities Agency to DMBC.

It would also create an unmanaged woodland site adjacent to the newly built properties.

It would create confusion to ownership and boundaries due to woodlands adjoining the site belonging to DMBC and the Forestry Commission.

(Explain the impact of not taking this decision and in the case of capital schemes, any risks associated with the delivery of the project)

Box 12

EQUALITY IMPLICATIONS:

To be completed by the report author

There are no equality implications

**Name: Michaela Rowlands Signature: Date: 5/6/18
(Report author)**

Box 13

CONSULTATION

Officers

This process has been managed by the Communities Team and as such all consultations with ward members and residents has been undertaken as part of the larger scheme

Members

Under the Scheme of delegation, officers are responsible for day to day operational matters as well as implementing decisions that have been taken by Council, Cabinet, Committee or individual Cabinet members. Further consultation with Members is not ordinarily required. However, where an ODR relates to a matter which has significant policy, service or operational implications or is known to be politically sensitive, the officer shall first consult with the appropriate Cabinet Member before exercising the delegated powers. In appropriate cases, officers will also need to consult with the Chair of Council, Committee Chairs or the Chair of an Overview and Scrutiny Panel as required. Officers shall also ensure that local Members are kept informed of matters affecting their Wards.

Please list any comments from Members below:

Michaela Rowlands consulted with Portfolio Holder – Cllr Joe Blackham – 22/5/18.
Agreed to take forward.

Box 14

INFORMATION NOT FOR PUBLICATION:

In accordance with the Freedom of Information Act 2000, it is in the public's interest for this decision record to be published in full, redacting only the signatures.

Name: S Greaves Signature: Date:01/05/18
Signature of FOI Lead Officer for service area where ODR originates

Box 15

Signed: Lee Garrett Date: 7 June 2018
Lee Garrett, Acting Assistant Director Environment

Signed: _____ Date: _____
Additional Signature of Chief Financial Officer or nominated representative for Capital decisions.

Signed: _____ Date: _____
Signature of Mayor or relevant Cabinet Member consulted on the above decision (if required).

- This decision can be implemented immediately unless it relates to a Capital Scheme that requires the approval of Cabinet. All Cabinet decisions are subject to call in.
- A record of this decision should be kept by the relevant Director's PA for accountability and published on the Council's website.
- A copy of this decision should be sent to the originating Directorate's FOI Lead Officer to consider 'information not for publication' prior to being published on the Council's website.
- A PDF copy of the signed decision record should be e-mailed to the LA Democratic Services mailbox

Appendix One



2nd February, 2016

To the Mayor and Members of the Cabinet

To use Section 106 money to re-develop derelict Coal Industry Social Welfare Organisation land at The Avenue, Bentley for a local community free play and sport area

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Chris McGuinness	Bentley	Yes

EXECUTIVE SUMMARY

1. **To use Section 106 funding to:**

- (a) **Re-develop derelict Coal Industry Social Welfare Organisation (CISWO) land at The Avenue, Bentley to reinstate football pitches, hard standing play area and create a space for a local community free play and sport area;**
- (b) **Provide a Programme of Sports Coaching**

It is being submitted due to expenditure in excess of £250,000.

EXEMPT REPORT

2. None.

RECOMMENDATIONS

3. Cabinet are asked to approve: -

- (a) The draw down of £289,396 s106 monies to deliver the re-development of CISWO land at The Avenue Bentley, including 15 years on-going maintenance, and the provision of a programme of sports coaching;
- (b) The equivalent of a £279,396 contribution to CISWO in the form of capital works to their land £180,000 and 15 years on-going maintenance £99,396 (these values are included in the overall project sum requested for draw down above);

- (c) The addition of the £180,000 capital element into the Council's Capital Programme.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. The opportunity for development of play space in the Bentley area is limited, particularly around the area of The Avenue, with most of this available land being the responsibility of CISWO and the Bentley Miners Trustees.

Appendix 1 shows the Community Profile for the Bentley area.

There are 9 schools, high numbers of residential properties and high levels of anti-social behaviour in this area, most attributed to the lack of facilities.

Therefore this development, from the perspectives of the community representatives, the community involved in the consultation and professional profiles on obesity, crime and physical activity is believed to play a meaningful role in providing the environment and facility to support some key changes.

With 9 Schools in the local area, and an obesity rate at year 6 equalling 34.4% with Doncaster best rate at 21.1% clearly provision allowing local access to open play fields and provision for sport and play would be a positive for this area.

The Doncaster v the National Sports profile details, provided by Sports England show that excess weight in adults (74.4%) compared with England (63.8%). 33.6% of Doncaster's adult population is inactive, in comparison to a National figure of 27.7%, and importantly that by increasing physical activity among 40 – 79 year olds by 50% will improve Doncaster number of preventable deaths by 99. The Adult community in Bentley equally report that the lack of available facilities and space is a key contributor to their ability to become active.

All crime statistics for the Bentley Ward area are significantly worse than the Doncaster average, this include lower levels of Neighbourhood nuisance and anti-social behaviour (for example in regards to people playing on the street). Local Safer Neighbourhood team work in Bentley have attributed a significant factor in those relating to children and young people is the lack of public open space to provide appropriate play areas.

This proposal is to re-develop CISWO land on The Avenue, Bentley, working in conjunction with the Bentley Miners Trustees, with a legal agreement to protect the Council's interest and ensure that the development of the CISWO land is fully accessible to the public for a term of 15 years.

There will be development on a current derelict site to reinstate football pitches, hard standing area and create a local community free play and safe area for play and sport. The land development is seen as the initial change to open up further opportunities for the Bentley Community to engage with physical activities and determine the use of the land. By not placing specific equipment or sports use on this land as part of this proposal it will enable the use of the land to match the demand and interests of the community to participate and will be able to adapt and change to this community need throughout the future years.

BACKGROUND

5. The proposed development of site has been undertaken with DMBC Streetscene, Community Parks and Highway Services, with Highway Services provided the costing to deliver the land structure works for the scheme.
 - The price for levelling the current derelict bowling greens and reseeded where necessary, removal of unused footways, removal of lighting columns and installation of new footway and surrounding benches comes to approximately: **£22,000**
 - The perimeter fencing (381 metres) comes to approximately: **£32,000**
 - The car parking area, which includes remedial works on an area of hard standing existing on site and an extension of hard standing comes to approximately: **£16,000**
 - To convert the land where the building formerly stood and to install adequate drainage. The conversion will include strip weeding and spraying the existing overgrown land, clearance of building rubble, assessment and fill of the mixed soft and hard landscape currently on site, including fill of prior building cellars. Removal of existing building drainage and replacement to ensure appropriate land drainage with the final surface to be hard standing. the price is approximately: **£70,000**

On top of this there will be:

- Design fees: **£16,000**
- Contingency fees in case things go wrong on site or there are things that occur that weren't priced for: **£24,000**

These are to cover certain aspects relating to the site which could not be priced up without the development starting for example:

- The land where the building previously stood and surrounding areas will need spraying to de-weed and then clearing, to ensure vegetation does not harm the finished construction.
- The cellars that served the building are filled with rubble from the demolition and it is likely that this will be filled with voids. We cannot be sure of the integrity of this land and it is possible that this land may subside after construction, leading to remedial works.
- We are currently unsure of what stats equipment could be under any of this land until surveys are undertaken

For additional maintenance requirements for the developed site, street scene will need to provide a higher level service to ensure appropriate surface of grass for sports use and clearance of hard standing area. These costs have been consulted and provided internally by the Street scene service.

- To provide required maintenance to site for period of 15 years agreement, including grass cutting, marking, hard standing clearance, provision of 3 bins and bin emptying, litter picking: **£99,396**

Sports Coaching Programme – an initiative by DRFC has proved successful in the past at reducing anti-social behaviour on sites around The Avenue. This funding will enable further delivery of this scheme specific to this site and encourage use of site.

- To deliver two schemes of Mini Kicks on this specific site. This is a recognised sports coaching session provided by Rovers Foundation and comprises a weekly session open to all for a year. The two schemes will enable provision on site of two weekly sessions for the first full year after development of site is complete and will cost: **£10,000**

Total cost of Section 106 scheme development and associated maintenance for the site is £289,396.

An available balance of £192,005 is currently held for the Section 106 Agreement under planning reference 97/3516/P. This will null the balance of the agreement.

An available balance of £105,620 is currently held for the Section 106 Agreement under planning reference 97/3515/P. £97,391 will be taken from this agreement leaving a balance of £8,229.

The funds for both these agreements were received in March 2011 and have to be used “*as a contribution to the Council in funding the provision and improvement of local woodlands and recreational facilities within the Bentley Ward*”. The funds are time limited and have to be spent within 5 years of their receipt. They will therefore be considered out of time and are at risk of claw back from the developer if the Council cannot evidence that they have been defrayed by March 2016.

OPTIONS CONSIDERED

- Option 1:** Re-develop the CISWO land at The Avenue, Bentley
It will create a huge sport and open free facility in a densely populated area of Bentley, where there is extremely limited public space accessible and free to use. Without this re-development there will not be the opportunity to provide play and sport for the community and is likely to see ongoing street play and anti-social behaviour problems connected to street play. This has been strongly supported by the community and the councillors as an area of need and a facility of need. This development will not only provide a facility for the community and improve the appearance and use of the area but will also ensure that the current derelict state of the area and associated perceptions are lifted.

Option 2: Do Nothing

This area is currently derelict, inaccessible and unused; the condition of this land is highly likely to deteriorate without investment, creating a further anti-social behaviour and environmental problem for the area. To do nothing would mean that the community are left with no other alternative options for public free and accessible facilities to enjoy public open space, sport and play space in this highly dense residential area of Bentley.

REASONS FOR RECOMMENDED OPTION

7. To ensure provision of a suitable public open space area in the area of The Avenue, Bentley. To ensure effective spend of available Section 106 monies to improve the recreation and public facilities in the Bentley Ward.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

8.

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Improving the environment in the residential built area of the Bentley Ward. Ensuring provision for reducing Anti-social behaviour due to street play nuisance, thereby improving community safety. Whilst encouraging residents and young people to be active and healthy with the provision of a high quality, accessible area of play.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	
	<p>Council services are modern and value for money.</p>	
	<p>Working with our partners we will provide strong leadership and governance.</p>	

RISKS AND ASSUMPTIONS

9. The risk of re-developing land that is not owned by Doncaster Council is to be mitigated by entering into a legal agreement with landlords (CISWO) and Bentley Miners Welfare Recreation Trustees.

The risk of not completing the scheme of land development at The Avenue, Bentley would be a loss of reputation due to work ongoing with councillors, community and land trustees in support of re-developing this site.

There will be the risk of loss of Section 106 monies due to time limit.

LEGAL IMPLICATIONS

10. The proposed use of the monies satisfy the requirements of the identified Section 106 Agreements. Specific legal advice should be sought in relation to the proposed agreement with the Bentley Miners Trustees in relation to the use of the land.

FINANCIAL IMPLICATIONS

11. The estimated cost of this proposal is £289,396 to be funded from s106 contributions: -

	£
Re-development of CISWO land	180,000
15 years on-going maintenance	99,396
Sports Coaching Programme	10,000
	<hr/>
	289,396
	<hr/>
Funded by: -	
s106 ref. 97/3516/P	192,005
s106 ref. 97/3515/P	97,391
	<hr/>
	289,396
	<hr/>

£180,000 of the above has been identified as capital in nature and the associated element will need to be added to the Council's capital programme. The value contains a £24,000 contingency (15%), so should be sufficient to avoid any cost overruns. With the Council not owning the land being re-developed, the value of the works effectively becomes a capital contribution to a third party. When coupled with the £99,396 for on-going maintenance, the total third party contribution is £279,396; in exchange for which the Council will secure various public open space and other outputs. This contribution contains a value that requires the approval of Cabinet and should be administered in line with Financial Procedure Rule E pertaining to grants to external bodies. The project will be added to the Adults, Health and Wellbeing capital programme and the project will commence once the necessary legal and procurement elements have been completed.

Both of the proposed s106 contributions are time limited and must be spent within five years of receipt, i.e. by the close of 2015/16 financial year. Any sum that has not been expended by that date might need to be repaid to the developer. The

on-going maintenance and the sports coaching programme will take place outside of this timescale, leaving £109,396 of the s106 monies at risk of claw-back. If this occurs the Council would have to identify replacement funding to honour those commitments. To date, no developer has requested details of expenditure against their s106 contributions and, although not provided for in the agreement, formal commitment against a project might satisfy a developer in this regard. As a result, the risk of claw-back is considered low.

Both the on-going maintenance and sports coaching programme are revenue in nature, with the former occurring over a number of financial years. Arrangements will need to be made to ensure that appropriate sums are applied to the revenue budget to match expenditure in the year in which it occurs. If approved, these can be included in the Council's procedures for providing similar budgets from other s106 agreements. Once the 15 year maintenance provision by the Council has expired responsibility for this will pass to CISWO.

S106 agreement ref. 99/3516/P relating to the development at The Avenue Bentley has a balance of £192,005, which will be fully committed if this decision is approved.

S106 agreement ref. 99/3516/P relating to the development at Daw Wood Bentley has a balance of £105,620. This leaves £8,229 available for other projects, though this balance is currently the subject of a separate decision for a project at Linden Walk, Toll Bar. If both decisions are approved these monies will also be fully committed.

There is sufficient flexibility in the nature of the s106 monies received to provide for both the capital and revenue elements of the project.

Given the nature of the project, it has been specifically assessed for VAT implications. In essence, CISWO have agreed that the Council can use the land for a fixed period of time for no consideration, and the Council will develop and maintain the land to be used in support of its non-business objectives (i.e. to ensure play space and reduce anti-social behaviour, etc.). Providing the Council places the order for the works; receives the supply; receives a VAT invoice addressed to the Council and uses its own funds for payment then VAT will be recoverable (s106 given to the Council by developers would be considered Council funds). These conditions must continue to be met through the life of the project otherwise there is a risk of additional costs through non-recoverable VAT.

HUMAN RESOURCES IMPLICATIONS

12. None

TECHNOLOGY IMPLICATIONS

13. None

EQUALITY IMPLICATIONS

14. No Negative equality implications from the recommended proposals.

CONSULTATION

15. Officers

These schemes have been consulted with the Stronger Communities Officers to meet the needs being reported via the Bentley Community. Consultation and the joint development of schemes has been undertaken with Community Parks, Highways and Play Equipment team for the public open space site works.

Members

All three Bentley Ward Members have been involved throughout the process of the projects and costings, all three have agreed with the recommended proposals.

Community

Agreements made to support development with representatives of CISWO and the Bentley Miners Welfare Trustees – the current land owners.

265 Community consultation letters were delivered with the details of the proposed design on this site, of which 96 were returned, a 35% return. Of those returned to date the results are as follows:

- 75 – Strongly agree
- 16 – Agree
- 2 – Neither agree or Disagree
- 1 – Strongly Disagree
- 2 – Disagree

Showing a 87% positive response to the development.

BACKGROUND PAPERS

16. None.

REPORT AUTHOR & CONTRIBUTORS

Lisa Swainston, Stronger Communities Wellbeing Manager
01302 734169 Lisa.swainston@doncaster.gov.uk

Kim Curry
Director of Adults, Health and Wellbeing