

Public Document Pack



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Wednesday 16 March 2016

Notice of Meeting

Dear Member

Cabinet

The **Cabinet** will meet in the **Council Chamber - Town Hall, Huddersfield** at **4.00 pm** on **Thursday 24 March 2016**.

This meeting will be live webcast. To access the webcast please go to the Council's website at the time of the meeting and follow the instructions on the page.

The items which will be discussed are described in the agenda and there are reports attached which give more details.

A handwritten signature in black ink, appearing to read "Julie Muscroft".

Julie Muscroft

Assistant Director of Legal, Governance and Monitoring

Kirklees Council advocates openness and transparency as part of its democratic processes. Anyone wishing to record (film or audio) the public parts of the meeting should inform the Chair/Clerk of their intentions prior to the meeting.

The Cabinet members are:-

Member

Councillor David Sheard
Councillor Jean Calvert

Councillor Steve Hall
Councillor Erin Hill
Councillor Viv Kendrick
Councillor Peter McBride
Councillor Shabir Pandor
Councillor Cathy Scott
Councillor Graham Turner

Responsible For:

The Leader
Community Development, Councillors involvement in
a New Council, including Councillor Development
Planning, Highways and Open Spaces
Family Support and Child Protection
Prevention, Early Intervention and Vulnerable Adults
Transportation, Skills, Jobs and Regional Affairs
Schools and Learning
Housing and Relief of Poverty
Resources and Community Safety

Agenda

Reports or Explanatory Notes Attached

Pages

1: Membership of the Committee

To receive apologies for absence of Members who are unable to attend this meeting.

2: Interests

1 - 2

The Councillors will be asked to say if there are any items on the Agenda in which they have disclosable pecuniary interests, which would prevent them from participating in any discussion of the items or participating in any vote upon the items, or any other interests.

3: Admission of the Public

Most debates take place in public. This only changes when there is a need to consider certain issues, for instance, commercially sensitive information or details concerning an individual. You will be told at this point whether there are any items on the Agenda which are to be discussed in private.

4: Deputations/Petitions

The Committee will receive any petitions and hear any deputations from members of the public. A deputation is where up to five people can attend the meeting and make a presentation on some particular issue of concern. A member of the public can also hand in a petition at the meeting but that petition should relate to something on which the body has powers and responsibilities.

5: Public Question Time

The Committee will hear any questions from the general public.

6: Member Question Time

To consider questions from Councillors.

7: Allocation of Supported Living Accommodation

3 - 10

A report seeking approval to amend the Kirklees Council's Housing Allocations Policy.

Contact: Paul Howard - 01484 221000

Wards

Affected: All Wards

8: Leasehold Asset Transfer of East Bierley Playing Fields

11 - 22

A report seeking approval for the grant of a 125 years lease of the East Bierley Playing Fields to East Bierley Community Sports Association for no premium/nil consideration and to include covenants to ensure that the majority of the building and land can only be used for community use.

Contact: Mark Gregory - 01484 221000

Wards

Affected: Birstall and Birkenshaw

9: Local Authority Searches: Proposed Introduction of VAT and Launch of New Con29 Search

23 - 28

A report informing Cabinet of a recent decision by Her Majesty's Revenue and Customs to introduce Value Added Tax at the standard rate on local authority Con29 searches and seeking approval to pass on the full VAT increase as part of the Con29 search fee.

Contact: David Reid - 01484 221000

Wards

Affected: All Wards

10: District Committee Budgets 2016/17

29 - 32

A report providing an update on District Committee year end spend and recommending a set of criteria for District Committee budgets for 2016/17.

Contact: Vina Randhawa - 01484 221000

Wards

Affected: All Wards

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KIRKLEES COUNCIL			
COUNCIL/CABINET/COMMITTEE MEETINGS ETC			
DECLARATION OF INTERESTS			
Name of Councillor			
Item in which you have an interest	Type of interest (eg a disclosable pecuniary interest or an "Other Interest")	Does the nature of the interest require you to withdraw from the meeting while the item in which you have an interest is under consideration? [Y/N]	Brief description of your interest

Signed: Dated:

NOTES

Disclosable Pecuniary Interests

If you have any of the following pecuniary interests, they are your disclosable pecuniary interests under the new national rules. Any reference to spouse or civil partner includes any person with whom you are living as husband or wife, or as if they were your civil partner.

Any employment, office, trade, profession or vocation carried on for profit or gain, which you, or your spouse or civil partner, undertakes.

Any payment or provision of any other financial benefit (other than from your council or authority) made or provided within the relevant period in respect of any expenses incurred by you in carrying out duties as a member, or towards your election expenses.

Any contract which is made between you, or your spouse or your civil partner (or a body in which you, or your spouse or your civil partner, has a beneficial interest) and your council or authority -

- under which goods or services are to be provided or works are to be executed; and
- which has not been fully discharged.

Any beneficial interest in land which you, or your spouse or your civil partner, have and which is within the area of your council or authority.

Any licence (alone or jointly with others) which you, or your spouse or your civil partner, holds to occupy land in the area of your council or authority for a month or longer.

Any tenancy where (to your knowledge) - the landlord is your council or authority; and the tenant is a body in which you, or your spouse or your civil partner, has a beneficial interest.

Any beneficial interest which you, or your spouse or your civil partner has in securities of a body where -

- (a) that body (to your knowledge) has a place of business or land in the area of your council or authority; and
- (b) either -

the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you, or your spouse or your civil partner, has a beneficial interest exceeds one hundredth of the total issued share capital of that class.



Name of meeting: Cabinet
Date: 24th March 2016

Title of report: Allocation of Supported Living Accommodation

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan ?	Yes
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman - 14.03.16
Is it signed off by the Director of Resources?	David Smith - 10.03.16
Is it signed off by the Assistant Director - Legal Governance and Monitoring?	Julie Muscroft - 10.03.16
Cabinet member portfolio	Councillor Cathy Scott - Housing and the Relief of Poverty Councillor Viv Kendrick - Prevention, Early Intervention and Vulnerable Adults

Electoral [wards](#) affected: All wards
Ward councillors consulted: N/A

Public or private: Public

1. Purpose of report

- i. The purpose of this report is to seek approval to amend the Kirklees Council's Housing Allocations Policy to include a new section that covers the allocation of all accommodation that has support integral to it (called supported living accommodation, see 2.ii), which includes Extra Care Housing.
- ii. The current Kirklees Council Housing Allocation policy was previously agreed at Cabinet in December 2012. Section 10 'Making Best Use of Council and Specialist Properties' includes at 10e) the allocation of Extra Care Housing. It is proposed that this section is amended and expanded

to cover the allocation of both Extra Care Housing and specialist supported housing for all groups of people.

- iii. The proposed policy and arrangement for allocating this type of 'Supported Living Accommodation' is attached at Appendix A.

2. Key points

- i. There is a growing need for supported accommodation in Kirklees covering all groups of people, for example physical disability, mental health etc. This type of accommodation is required as an alternative to more expensive residential accommodation. This will ensure that people who can live safely and more independently, with appropriate support are able to do so; in turn this will also save the council money by not paying for more expensive accommodation. In addition this can mean vulnerable people have better health outcomes and are able to live in the community for longer.
- ii. Supported Living Accommodation is accommodation for adults who need care and/or support in a safe environment. A fundamental feature is that it is a housing model with a focus on independence and inclusion where the individual has a tenancy agreement and personal care and/or support provision is an integral part. This includes extra care provision in Kirklees.
- iii. Exclusions from this proposal include, general needs housing, retirement living schemes managed by Kirklees Neighbourhood Housing, all adapted properties and specifically designed wheelchair accommodation such as the Excellent Homes for Life properties and Care Quality Commission Registered Accommodation.
- iv. The council is currently working with a number of partners to develop and increase the supply of this much needed accommodation for older people and all disability groups. One example being the current Care and Specialist Supported Housing (CaSSH) developments which are being built by Connect Housing for people with a physical and learning disability, but where Kirklees Council will have 100% nomination rights.
- v. As with the current allocation of Extra Care Housing it is intended that this type of accommodation is allocated by a panel of professionals outside of the current Choose n Move+ system. This panel is made up of people from appropriate care groups, housing and social care assessors. Proposed residents will need to have a housing need as set out in the attached appendix A and will also have an assessed need for the support provided with the specialist accommodation.
- vi. The proposed addition to the Housing Allocations Policy will give a framework for allocating properties in a fair and transparent manner.

3. Implications for the Council

- i. Legal - Kirklees Council's Housing Allocations Policy sets out the way in which we will let council properties and nominate customers to Registered

Providers. The Policy is based upon the Council's statutory duties and will ensure that reasonable preference is given to customers in greatest need.

The allocations policy has regard to part 6 of the Housing Act 1996, as amended by the Localism Act 2011 and the statutory Department of Communities and Local Government codes of guidance on both the Allocation of Accommodation Choice Based Lettings 2008 and the Allocation of Accommodation: guidance for local authorities in England first published in 2012 and updated in 2013.

In framing this policy amendment the authorities' public sector duty under section 149 of the Equalities Act 2010 has been given due regard. Under section 149 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 persons who share a relevant protected characteristic and persons who do not share it ..". Section 149(7) sets out 7 protected characteristics namely, age, disability, gender reassignment, pregnancy and maternity, race, religion, or belief, sex and sexual orientation. An Equalities Impact Screening has been completed. This shows that this change will have no negative impact on the protected characteristic groups; it is felt that this policy change is beneficial to those groups.

The Housing Act 1996 (sections 166A 13 and 168 1, 2 and 3) requires the local housing authority to consult with registered providers, which have nomination rights, on major policy changes and bring to the attention of other persons likely to be affected any major policy alterations. As in this case the change relates to the allocation of a very small percentage of the Council's overall housing stock (140 Extra Care flats from over 22,000 properties) and to a small number of existing and new specialist supported housing schemes owned by Registered Providers in the district the proposed alterations to policy are not considered to be major and as such formal consultation is not required.

Registered Providers currently developing supported accommodation schemes in partnership with the council as part of the Care and Specialist and Supported Housing Scheme are aware of the proposed policy changes. If approved the Housing Allocation Policy will be amended to reflect the changes and will be published on the Council's website.

- ii. Finance - This type of accommodation will save the council money by providing a less expensive option than residential care. It will also increase a person's independence and help prevent dependency and the need for more expensive interventions.
- iii. An Extra Care allocations panel is currently established. The role and terms of reference for this group, including membership and officer delegations, will be amended to cover all specialist supported accommodation and care groups.

4. Consultees and their opinions

- i. Adult social care colleagues representing the various care groups; learning disability, mental health, older people and physical and sensory impairment have all been consulted and are in agreement with this approach.

5. Next steps

- i. Amend the Housing Allocation Policy to reflect the approved changes and publish the revised policy.
- ii. Amend the terms of reference, membership and officer delegations of the Extra Care Allocation Panel to accommodate consideration for all care groups.

6. Officer recommendations and reasons

- i. That the addition to the Housing Allocation Policy (set out in Appendix A) be approved to ensure the allocation of supported accommodation is carried out in a consistent manner.
- ii. That authority to make future minor amendments to the Housing Allocations Policy in order to comply with legislation, guidance and case law, provided it is not a major change of policy under section 166 (13) of the Housing Act 1996, is delegated in consultation with the Portfolio Holder to the Assistant Director - Place.

7. Cabinet portfolio holder recommendation

- i. The portfolio holder, Councillor Cathy Scott, is in agreement, for the report to proceed to Cabinet and would recommend, that the addition to the Housing Allocation Policy be approved, to ensure the allocation of supported accommodation is carried out in a fair, transparent and consistent manner.
- ii. That authority to make future minor amendments to the Housing Allocations Policy is delegated, in consultation with the Portfolio Holder to the Assistant Director - Place.

8. Contact officer and relevant papers

Paul Howard/Cath McGurk
Operations Managers
Streetscene and Housing
Tel: (01484) 221000
paul.howard@kirklees.gov.uk
cath.mcgurk@kirklees.gov.uk

Relevant papers; the Kirklees Council Housing Allocation Policy,
<http://www.kirklees.gov.uk/community/housing/pdf/housingallocationspolicy.pdf>
Appendix A, Supported Living Accommodation - Allocations Policy

9. Assistant Director responsible

Kim Brear
Assistant Director - Place
Tel: (01484) 221000
kim.brear@kirklees.gov.uk

Appendix A

Supported Living Accommodation Allocations Policy

1 Introduction

- 1.1 Supported Living Accommodation, for the purpose of this policy, is accommodation for adults who need care and/or support in a safe environment. A fundamental feature is that it is a housing model with a focus on independence and inclusion where the individual has a tenancy agreement and personal care and/or support provision is an integral part. This includes extra care provision in Kirklees.
- 1.2 The purpose of this document is to set out the policy for the allocation of Supported Living Accommodation in Kirklees and is a generic document covering all care groups. This policy sits under and forms part of, the Council's Housing Allocations Policy.
- 1.3 The Care Act 2014 places a duty on Councils to involve people in decisions made about them and their care and support. Throughout the Supported Living Accommodation Allocations process, the Council will provide an independent advocate, if required, as per their duty under the Care Act.

2 Exclusions

- 2.1 General needs housing, retirement living schemes and those which are adapted or wheelchair designed/accessible properties.
- 2.2 Private or other Specialist Housing where Kirklees Council do not have nomination rights.
- 2.3 Care Quality Commission (CQC) Registered Accommodation

3 Eligibility

- 3.1 A Supported Living Allocations Panel will exist to oversee all applications for Supported Living Accommodation in Kirklees and determine the eligibility of each Applicant against the Supported Living Accommodation Eligibility Criteria.
- 3.2 The Supported Living Allocations Panel will include representatives from Social Care, Housing Services and where appropriate, scheme/care providers.
- 3.3 Applicants for Supported Living Accommodation in Kirklees must meet the following Basic Eligibility Criteria:
 - 3.3.1 The individual must have eligible care needs under the Care Act 2014 as determined by the Council and;
 - 3.3.2 The individual must have a housing need as determined by the Council - this can include:
 - The need to move out of residential accommodation due to closure or change in registration
 - Prevention of a crisis and their current situation breaking down
 - Part of planned pathway step approach that will lead to better outcomes for the individual and a potentially cost effective solution for the Council
 - Safeguarding considerations
 - Improving mental health and wellbeing including social isolation

- 3.4 In addition to the basic criteria each Supported Living Accommodation scheme will have additional eligibility requirements dependent on what onsite care and support each scheme will provide or specialise in.
- 3.5 Additional eligibility criteria for each scheme (and the reasons for this) will be agreed and documented by the Council prior to any Supported Living Allocation Panel meetings taking place.
- 3.6 Applicants who do not meet the basic or additional criteria for Supported Living Accommodation and therefore not added to the Supported Living Accommodation Register, will be notified by the Council of the decision in writing and reasons why, will be recorded by the Supported Living Allocations Panel.

4 Appeals/reviews of decisions

- 4.1 Individuals can appeal against a decision, made by the Council, not to add their name to the Supported Living Accommodation Register. They must do this within 21 days of receiving the decision.
- 4.2 Appeals will be dealt with by at least 2 Senior Managers from the Council who were not involved in the Supported Living Allocation Panel, one of whom will be a housing representative.
- 4.3 The individual will be notified of the appeals decision in writing, together with reasons, within 28 days of receipt of the appeal.
- 4.4 The individual will be informed if Senior Managers need to defer the appeals decision pending further information.
- 4.5 If the person is still not satisfied this can then be pursued through the appropriate stage of the Council's corporate complaints procedure.

5 Empty Properties

- 5.1 Where there is no tenancy or the existing resident has given notice, the Council will be responsible for working with the Registered Providers of each Supported Living scheme to minimise any void periods and to ensure vacancies are considered by the Supported Living Allocations Panel.
- 5.2 It is important that void periods are kept to a minimum in order to reduce unnecessary costs for the Council and avoid long waiting periods for prospective tenants.
- 5.3 The following considerations, in order of priority, will be taken into account when prioritising individuals for empty properties:
 - 1) The specialist nature of the accommodation provided
 - 2) Consideration to the mix of tenants including level of care and support needs
 - 3) Where there is a statutory duty including ordinary residence
 - 4) Consideration of alternative more cost effective options
 - 5) Individual risks
 - 6) Length of time on the Supported Living Accommodation Register

6 Tenants no longer eligible for Supported Living Accommodation

- 6.1 Where an occupant of Supported Living Accommodation no longer meets the eligibility criteria for the scheme, the Council will work with Registered Providers, the tenant and their family to support and incentivise a move to more suitable accommodation. This will ensure best use of Supported Living Accommodation in Kirklees.

6.2 Incentivising a no longer eligible tenant to move out of Supported Living Accommodation can include:

- Providing help and support to find alternative more suitable accommodation
- The tenant can apply to the Council's housing register and consideration will be given to award B and B (Care and Support) to assist their move into more independent accommodation, with support if appropriate.



Name of meeting: Cabinet

Date: 24 March 2016

Title of report:

Leasehold Asset Transfer of East Bierley Playing Fields, Off Hunsworth Lane, East Bierley, BD4 6PU

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan?	No
Is it eligible for "call in" by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman – 15 March 2016
Is it signed off by the Director of Resources?	David Smith – 10 March 2016
Is it signed off by the Assistant Director - Legal, Governance and Monitoring	Julie Muscroft – 10 March 2016
Cabinet member portfolio	Resources and Community Safety – Cllr Graham Turner

Electoral [wards](#) affected: Birstall and Birkenshaw

Ward councillors consulted: Cllr Robert Light, Cllr Elizabeth Smaje, Cllr Andrew Palfreeman

Public or private: Public

1. Purpose of report

- 1.1 The report sets out the proposal to grant a long lease of the land and buildings that currently make up East Bierley Playing Fields to East Bierley Community Sports Association.
- 1.2 The report also sets out a request from the group for a loan from the Council of £175,000 over a period of 20 years.
- 1.3 Community Asset Transfer involves transferring land and budgets from a statutory body to a community organisation at 'less than best consideration' – that is at less than its full market value – in order to

further social, economic and /or environmental objectives. The Council's Asset Advancement Policy was approved at Cabinet in 2013.

2. Key points

Background

- 2.1 East Bierley Playing Fields (“the Site”) are located off Hunsworth Lane, East Bierley and are currently managed by the Council, The pitches on the Site are used for both Rugby and Football and there are approximately 4 teams that regularly play on the pitches.
- 2.2 There are 2 changing facilities on the Site: one is managed by the Council; one is managed by one of the teams that play on the pitches (and that team is a member of the East Bierley Community Sports Association. Both facilities are in a poor state of repair and both require significant capital investment to bring them up to a suitable standard.
- 2.3 Current users pay Kirklees £400 per season to use the pitches, Kirklees currently maintain the pitches and the changing facilities and this is at an estimated cost of £7500 per year.
- 2.4 East Bierley Community Sports Association (“the Association”) was formed in 2013 and members are from the active teams who currently use the pitches on the Site They have formed a RFL, FA and Sports England Approved constitution to enable them to move forward with an asset transfer. The group do not currently have a lease for the .Site
- 2.5 The Association has secured £125,000 funding towards the demolition of the old changing facilities.
 - £50k Sport England funding- secured
 - £25k Sport England-committed
 - £50k indicative funding from the Football Stadia improvement fund.

The group have also requested a loan from the Council of £175,000 over 20 years. The loan will enable the group to continue with their planned rebuild of the changing facilities including the relevant asbestos, health and safety and environmental surveys required. If the Council decide to not grant a loan the Association can use alternative funding sources, however rates are not as competitive and timescales are an issue as the group are at risk of losing approximately £50,000 if a funding source is not found by April 2016 (the £50k Football Stadia funding improvement fund is at risk if a lease or agreement in principle to lease is not secured before the end of the football season.)

Asset Transfer

- 2.6 Members of the Association have met with officers of Kirklees Council with a view to taking a leasehold asset transfer of the Site and have recently submitted a Community Asset Transfer application.

East Bierley Community Sports Association aim to support not only local sports teams to utilise the space but also aim to open the space to the wider community for recreation, fitness and social activities.

- 2.7 The Association have submitted a robust application and business plan in line with the requirements of the Asset Transfer Policy, this includes the development of policies, outline of service users and financial plans which have been assessed by the Communities and Engagement Team, Locality (which is a third party who are working in partnership with the Council to support groups in capacity building and business planning), Corporate Landlord and Strategic Finance. The application was assessed using the Asset Transfer assessment tool which assesses 5 areas including a financial assessment, impact on community, risk, the asset and the strength of the organisation. This assessment was designed in line with the Hallmarks of an Effective Charity which is written and supported by the charity commission.
- 2.8 The Council's Asset Advancement Policy was developed in response to the Quirk review and subsequent localism agenda, and approved by Cabinet 8 October 2013. The policy allows for assets to be transferred either through long term leases or freehold transfer, but normally with covenants which restrict use to community use.

The decision options for this request for asset transfer are:

Refuse the request for an asset transfer?

Community Asset Transfer is one of the strands empowering communities to do more for themselves and is a key Council priority.

If either a leasehold or freehold transfer is refused the Association will not be able to draw down the relevant funding to allow for capital improvements for the changing facilities on site.

Officers are of the opinion that this is not the recommended option on the grounds that this wouldn't allow the Association to proactively develop the site allowing for increase in usage by the local community.

Transfer on a leasehold or freehold basis?

The Council's Asset Transfer Policy was approved in 2013 and states: "and a transfer may take a number of legal forms. At one extreme, a transfer of the 'freehold' of a property would mean the entire ownership of the building would pass from the Council to the community based group. However, restrictions (called 'covenants') would normally ensure the property remained available to local people to use and prevent it being sold for development. At the other end of the spectrum, a 'licence' would allow a community based group to use a building, but sharing its use with other

groups or individuals. In between these extremes, a 'lease' will give a community based group the exclusive right to use the property for the duration of the lease. A lease can run for any period - commonly from a few months, up to 999 years. At the end of the lease or licence the building will either return to Council control or a further lease or licence could be negotiated. Should the management of a building fail then the council would accept the building back into its portfolio regardless of the advancement basis".

To mirror previous asset transfers which have been agreed to transfer on a freehold basis at nil consideration officers are of the opinion that the lease transfer should take place as a full repair and insure lease, at nil consideration, but that a lease is required rather than freehold as it is the first playing field and public open space asset transfer the Council has completed.

Officers are of the opinion that a lease transfer, full repair and insure lease, for 125 years is the recommended option on the grounds that, in the unlikely event that the Association ceases to operate, the Council would have the right to terminate the Lease (subject to the exercise of any step-in rights in favour of the other funding bodies) and therefore the Council would be more likely to have the ability to regain control of the Site

Transfer with or without covenants?

a. Transfer with a restrictive covenant.

Officers are of the opinion that this should be the recommended option but that flexibility of the area could be allowed for commercial activity to support the income of the Association.

b. Transfer without restrictive covenants in place.

Officers are of the opinion that this should not be the recommended option on the grounds that the future use of the playing fields could be lost to the local community without these covenants in place.

Costs

2.9 The Council does not have a Conditions Survey for the building, however the Association have provided pictures of the site within their business case and the premise is in a poor state of repair.

2.10 The current running costs to the Council for the site is £7,500 pa, this relates to water and electricity within the changing facilities and pitch maintenance.

Loan

2.11 A loan has been requested by the Association to enable them to undertake various surveys, demolition and rebuild of the current changing facilities.

Initial discussions centred on a £150,000 loan with a maximum repayment period of 10yrs with the loan being secured against the changing facilities. Subsequently the Association requested loan facilities for £175,000.

- 2.12 For a £175,000 loan, this would require the Association to repay £20,124 per annum with a total debt repayment across the 10 years of £201,240.

The submitted business plan requests that the loan is offered over a 20yr period. The impact is to reduce annual repayments to £12,072 but the total value of debt to be repaid by the Association over the term of the loan increases to £241,440.

The Association's financial forecasts estimate approximately £25,000 of income will be generated in an average year (mainly through memberships, Association lottery and fundraising events). This level of revenue funding covers building running costs, fees, and loan repayments (based on a 20 yr. loan period) and is estimated to produce a small cash flow surplus from Yr. 3 onwards (average surplus £500 - £1,500 each year).

The business plan indicates that any loan repayment plan based on a period less than 20 yrs. will adversely impact on the viability of the Association's finances and therefore be unaffordable.

The Association have stated within their business case that although they have secured funding of approximately £125,000 from Sports England that additional funds will still be required to upgrade the facilities on Site. If a transfer is granted without the offer of a loan the group will not be able to proceed with the building work and given the state of the current facilities risk current teams seeking alternative facilities to use.

- 2.13 The request of a loan in connection with an asset transfer application is unusual and was not envisaged when the current Asset Transfer Policy was approved (sept 2013).

- 2.14 One of the key planks of the Quirk/localism agenda and the subsequent asset transfer policy was about empowering communities to do more for themselves; recognising the Councils increasingly challenging financial position by transferring assets on long term leases/freehold basis and opening up new funding opportunities to organisations to apply for e.g. Lottery Bids and Sports England funding. Consequently, the asset transfer policy did not anticipate and therefore did not address loan facilities to be the norm, however Cabinet in considering each request can make exceptions.

- 2.15 Officers consider that offering a loan period above 10 years to this group increases the risk of the total loan value not being recovered in the future. However, it is acknowledged that the viability of the proposal is dependent on a 20yr loan period being granted whether the loan facility is via the Council or an alternative funding source previously mentioned. Annual repayments to the Council based on a 10 year loan are £8,052 higher than those based on a 20 year loan period.

- 2.16 Based on a loan of £175,000 over 20 years as requested, the Council would be repaid interest totalling £66,440.

Valuation

Unrestricted Value

The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Red Book (Practice Statement 3.2), except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

The unrestricted value of East Bierley Playing Fields is: £80,000

Restricted Value

The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

The restricted value of East Bierley Playing Fields is: £ Nil

Voluntary Conditions

A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land. Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

The value of voluntary conditions in the proposed transaction is: £ Nil

Amount of discount given by the Council

The difference between the unrestricted value of the land to be disposed of and the consideration accepted (the restricted value plus value of any voluntary conditions).

The amount of discount in the proposed transaction is: £80,000

In respect of *Local Government Act 1972 general disposal consents (England 2003) disposing of land for less than best consideration that can be reasonably obtained* the transaction does not require the Council to seek specific consent from the Secretary of State as the difference

between unrestricted value of land to be disposed of and the consideration accepted is £2,000,000 or less.

3. Implications for the Council

- 3.1 The Local Government Act 1972 General Disposal Consent means that specific consent is not required for the disposal of any interest in land/buildings at less than best consideration which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental well being of its area. Following their assessment the Council is confident that East Bierley Community Sports Association meets the social, economic and social factors for the local community.
- 3.2 The site is deemed Public Open Space and therefore relevant consultation with the public has been instigated via Council Procedures. The objection period will expire on 4th March. Cabinet would need to consider any objections received and therefore the timing of the asset transfer decision may have to be delayed if an objection were received.
- 3.3 The draft local plan states that the pitches are green belt and the wooded area is wildlife habitat.
- 3.4 A phase 1 environmental survey has already been undertaken and the land has been identified as a former pit and reservoir which may have been backfilled in the past with colliery soil. A phase 2 environmental survey will be commissioned as part of the planning process, this will identify the ground conditions and the extent of any contamination from historical and current uses.
- 3.5 As the facility is close to the border with Bradford Council the group have provided additional statistical evidence with regards the sports club users and have established that 92% are Kirklees residents. In addition there are at least 25 visits per day from local Kirklees residents using the facility as dog walkers and other exercise which is in excess of 9,000 visits annually.

4. Consultees and their opinions

- 4.1 The group were consulted and have commented specifically about the loan: *"We are not aware of any other funders being able to have security on an Asset unless KMBC are happy that their book value transfer outweighs their on-going risk and liability for the site.*

We have no alternative funding option at the minute so therefore we wouldn't be proceeding with the asset transfer due to the standard of the present facilities at the site. The clubs who also play there would have no choice but to look to move elsewhere to a location with better facilities, leaving the current site as it stands today for the council to pick up from there.

This was mentioned and is included within our risk log.

The timing of the cabinet meeting means if we don't get the decision on the loan and the asset, then we will lose a grant of £50k and this would leave

us requiring a loan of over £200k which with the legal asset points still remaining outstanding and with Kirklees to finalise, no other funder would consider us at the present time so if we don't succeed in gaining both decisions before at least April, we stand lose the grant and the project isn't able to proceed.

4.2 The group currently have no alternative funding in place, they have explored other options but feel that the alternative loans available are too expensive for a not for profit organisation, therefore they have stated that they would not wish to continue with the asset transfer if the loan was not available. The group have also noted that there is a possibility sports clubs would look to move elsewhere if the development of the site couldn't move forward.

4.3 Ward Councillors were consulted and commented:

Cllr Palfreeman - I support the Sports Association in this particular project. The work which the clubs undertake is vital, especially in encouraging young people (of both sexes) to experience the benefits of exercise and sport. In order to assist the Association to I would ask that the loan be granted for 20 years but in all other aspects I agree with the proposals.

Cllr Smaje - I also support the association in this project and agree with Cllr Palfreeman's comments.

Cllr Light - I fully support the proposed asset transfer however I strongly believe it is in the best interest of the Council to offer a loan over a twenty year period. The longer period will make the venture much more sustainable and enable the Association to focus on involving young people from our local community in sport rather than just making loan repayments.

4.4 Cabinet Members requested greater clarity around the risks:

- Approve the Community Asset Transfer and the loan?

This option will support the Council's priority of empowering communities to do more for themselves. It will make a financial saving of revenue running costs (£7,500 p.a.) and avoid a future capital replacement cost.

The current asset transfer policy does not address the concept of providing loans, but Cabinet can make exceptions however Cabinet will also need to consider if granting a loan whether a precedent is set and whether the Council can afford any potential future demands from other groups requesting a loan along with an asset transfer?

The loan can be secured against the property to mitigate against the risk of the association defaulting on the loan as the mere fact that the loan is secured will encourage compliance.

- Approve the Community Asset Transfer but with a reduced loan/shorter term?

To succeed, the Association would either have to make savings on the replacement build costs, find an additional source of funding, or adjust their business plan to accommodate the higher payments required from a shorter term loan. If the Association was successful in this then the Council would benefit from empowering communities to do more for themselves, and make a financial saving on revenue running costs (£7,500 p.a.) and avoid a future capital replacement cost.

The current asset transfer policy does not address the concept of providing loans, but Cabinet can make exceptions, however Cabinet will also need to consider if granting a loan whether a precedent is set and whether the Council can afford any potential future demands from other groups requesting a loan along with an asset transfer?

The loan can be secured against the property to mitigate against the risk of the association defaulting on the loan as the mere fact that the loan is secured will encourage compliance.

- Approve the Community Asset Transfer without a loan?

The Association have said they would not proceed with the asset transfer if a loan was not approved as they have no other funding options and because of the standard of the current facilities. This option would maintain the status quo. Current revenue running costs to the Council of £7,500 and a future capital liability to either replace the current facilities or close them if they become a health and safety risk. It is also likely that clubs will move elsewhere to locations with better facilities.

- Do not approve the Community Asset Transfer or the loan?

This option would maintain the status quo. Current revenue running costs to the Council of £7,500 and a future capital liability to either replace the current facilities or close them if they become a health and safety risk. It is also likely that clubs will move elsewhere to locations with better facilities.

5. Next steps

- 5.1 Subject to Cabinet approval Officers from Physical Resources and Procurement will complete negotiations and agree terms of the lease for the asset transfer to take place and officers from the Resources Directorate will complete negotiations and agree the terms of the loan.

6. Officer recommendations and reasons

- 6.1 Members are requested to approve the grant of a 125 years lease of the East Bierley Playing Fields to East Bierley Community Sports Association for no premium/nil consideration and to include covenants to ensure that the majority of the building and land can only be used for community use.
- 6.2 Members are requested to consider the balance between the affordability (and hence the likelihood) of the repayments of a loan and the length of

the term. Clearly a shorter loan imposes a greater burden on the Association, but reduces the risk to the Council. Hence officers initial suggestion of a 10 year loan which would appear difficult for the club now to afford. Members are requested to consider whether the Council should offer a loan of £175k to the East Bierley Community Sports Association for a term of 20 years (interest rate-see appendix B) and if so whether that loan should be a secured loan or whether the Council should recommend the Association pursue alternative funding sources.

6.3 Members are requested to note the Assistant Director of Physical Resources and Procurement and Assistant Director Legal Governance & Monitoring have delegated authority to negotiate and agree the terms of the lease that relate to the transfer of East Bierley Playing Fields.

6.4 Members are requested to note that the Director of Resources has authority to negotiate and agree the additional terms of any loan that Members may choose to offer to the East Bierley Community Sports Association

7. Cabinet portfolio holder recommendation

7.1 The Portfolio Holder, Cllr Graham Turner recommends the 125 year leasehold transfer of the East Bierley Playing Fields to East Bierley Sports Association for no premium/nil consideration subject to restrictive covenants for community use.

7.2 Additionally, the Portfolio Holder, Graham Turner recommends the granting of a secured loan for £175,000 to the association, but over a 15 year period. The timing of the release of the loan to the East Bierley Community Sports Association to be negotiated with the Assistant Director Physical Resources and Procurement in the conjunction with the Director of Resources.

8. Contact officer and relevant papers

8.1 Appendix A - Red Line Boundary

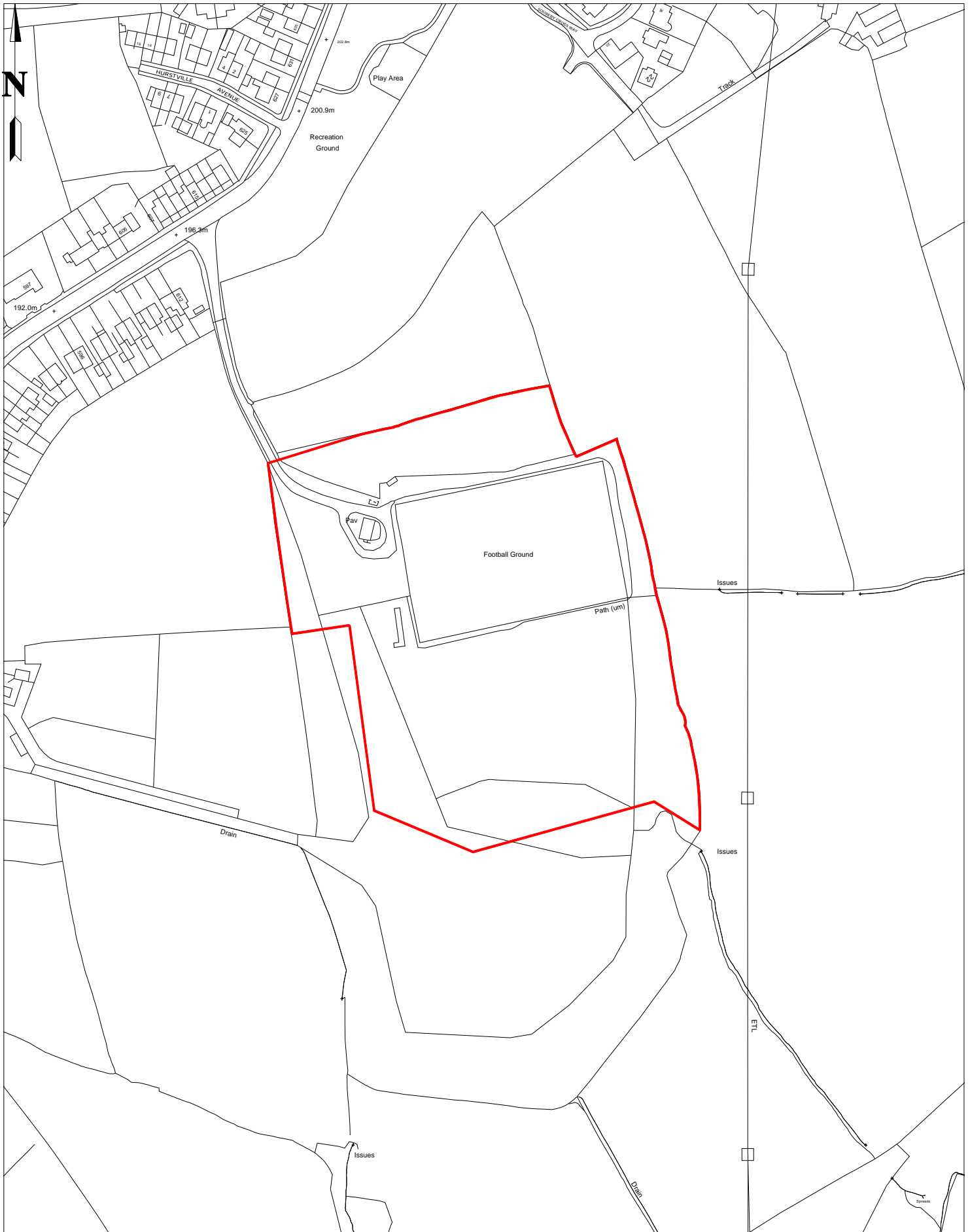
8.2 Appendix B – Loan Repayment Schedule

Mark Gregory, Head of Corporate Landlord mark.gregory@kirklees.gov.uk
(01484) 221000

Jonathan Quarmby, Corporate Facilities Manager
jonathan.quarmby@kirklees.gov.uk (01484) 221000

9. Assistant director responsible

Paul Kemp, Assistant Director - Place



**PHYSICAL RESOURCES
& PROCUREMENT**

Plan No: 15-0579

Scale: 2500

Required by:

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Cost of borrowing - East Bierley

(based on PWLB annuity rates 30/10/2015)

Based on loan of £175,000

Period	PWLB annuity rates	Certainty discount	Interest rate for KMC	Add for admin 0.50%	Cost per 1,000	Current cost of borrowing per year for principal and interest	Total repayment	Total interest	Annual payment	Monthly payment	Monthly per club
yrs											
5	1.82%	0.20%	1.62%	2.12%	-£212.90	21.3%	£186,375	£11,375	£37,275	£3,106	£777
10	2.34%	0.20%	2.14%	2.64%	-£115.09	11.5%	£201,250	£26,250	£20,125	£1,677	£419
15	2.83%	0.20%	2.63%	3.13%	-£84.56	8.4%	£220,500	£45,500	£14,700	£1,225	£306
20	3.01%	0.20%	2.81%	3.31%	-£69.16	6.9%	£241,500	£66,500	£12,075	£1,006	£252



Name of meeting: Cabinet
Date: 24 March 2016

Title of report: Local Authority Searches:
Proposed Introduction of VAT
and Launch of New Con29 Search

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	Yes
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman - 14.03.16
Is it signed off by the Director of Resources?	David Smith - 10.03.16
Is it signed off by the Assistant Director - Legal & Governance?	Julie Muscroft - 10.03.16
Cabinet member portfolio	

Electoral [wards](#) affected: All
Ward councillors consulted: None

Public or private: Public

1. Purpose of report

To inform Cabinet of a recent decision by Her Majesty's Revenue and Customs (HMRC) to introduce Value Added Tax (VAT) at the standard rate on local authority Con29 searches and to seek approval to pass on the full VAT increase as part of the Con29 search fee.

Also to update Members on a proposed substantial revision of the Con29 search in July 2016 by the Law Society and to seek approval to review and amend fees as appropriate.

2. Key points

2.1 Local authorities (LAs) offer a conveyancing search service to prospective purchasers of land or property. The search comes in two parts. Firstly, an LLC1 search, which is a search of the Council's local land charges register to identify any outstanding charges or restrictions which have been lodged against the property. Secondly, a Con29

search, which is a list of questions, approved by the Law Society, which covers such issues as planning, highways, building control and environmental health.

- 2.2 LA conveyancing searches are currently non-VATable as they have traditionally been viewed by HMRC as a core local government function, rather than a general business activity.
- 2.3 In recent years, an emerging private sector has lobbied HMRC to review this decision, arguing that their presence means that LAs are no longer sole providers of searches, while the market place is distorted as they currently pay VAT.
- 2.4 HMRC has now announced its intention to levy VAT on LA searches at the standard rate (currently 20%). This is to commence from 4 July 2016.
- 2.5 HMRC has further confirmed that this decision will *not* apply retrospectively. Also, it will only apply to the Con29 element of the LA search and not the accompanying LLC1 search. HMRC say this is because the LLC1 is provided under statute, whereas the Con29 is a discretionary business function.
- 2.6 Also on 4 July 2016, the Law Society will replace the existing Con29 search form with a new revised edition. The final draft of the new version has just been released to the trade and features questions on a number of new areas, including the Community Infrastructure Levy, Sustainable Urban Drainage Schemes, Public Rights of Way, and Assets of Community Value.

3. Implications for the Council

- 3.1 Kirklees Council carries out approximately 4,000 searches per year. VAT at 20% will amount to approximately £35,000 per year.
- 3.2 The Council can absorb the VAT within existing budgets or it can pass on the cost to its customers, some of whom will be VAT registered and able to recover this additional expense.
- 3.3 The views of neighbouring authorities have been sought. Most are intending to pass on the increase, the exceptions being those authorities whose prices are currently high and who feel that passing on the increase would make them uncompetitive. The Kirklees search is priced at mid-range for this region.
- 3.4 It is proposed that VAT be added to the Kirklees fee, rather than absorbed, as fees are already set with regards to costs.
- 3.5 The introduction of a revised Con29 in July 2016, will require the Council to take steps to ensure that we are in a position to respond to the additional queries. Officers are already in discussions with relevant departments and our software providers to ensure that we can go live on 4 July 2016.

- 3.6 Search fees are set with regard to costs and the new enhanced Con29 may require additional resources from within the Local Land Charges team to complete. However, it isn't clear at this stage exactly what the full resource implications will be.
- 3.7 Legislation requires that LAs carry out a cost analysis each Spring before setting their search fees and this exercise will complete before the introduction of the new Con29. It is therefore proposed that fees remain at current levels for the year 2016/17 (excepting the addition of VAT and the identification of any unexpected issues during the Spring 2016 cost analysis). Any additional costs associated with the new Con29 will be identified during the Spring 2017 analysis, once the new form and processes have bedded in.

4. Consultees and their opinions

The Council's VAT Officer and Finance department who are supportive of the proposal.

5. Next steps

Subject to confirmation of Cabinet's views, officers will finalise preparations for the introduction of VAT on Con29 searches on 4 July 2016. This includes updating Finance and IT systems and notifying customers.

Officers will continue preparations for the launch of the new Con29 on 4 July 2016. Subject to Cabinet approval, a full review of costs associated with the introduction of the new Con29 will take place during the Spring 2017 cost analysis.

6. Officer recommendations and reasons

It is recommended that the VAT applicable to Con29 search fees, which comes into effect from 4 July 2016 or as otherwise advised by HMRC, be added to the current chargeable fee.

This is due to search fees being set with regards to costs, which means that there is little scope within the budget to absorb the estimated £35,000 per year that VAT will entail. This move is in line with most other local authorities.

It is also recommended that search fees for 2016/17 remain at current levels (excepting the addition of VAT and the identification of any unexpected issues during the Spring cost analysis) as the full impact of the new Con29 is unclear at this stage. A full review of costs will take place in the Spring of 2017 once the new Con29 has been launched and bedded in.

7. Cabinet portfolio holder recommendation

The portfolio holder Councillor Steve Hall, supports the officer recommendations, in that, the VAT applicable to Con29 search fees, which comes into effect from 4 July 2016 or as otherwise, advised by HMRC, be added to the current chargeable fee and other relevant detail as fully laid out, in the recommendations at section 6 above.

8. Contact officer and relevant papers

Dave Reid
Senior Highways Registry Officer
Tel - (01484) 221000
Email - david.reid@kirklees.gov.uk

Appendix 1 - Proposed search fees from 4 July 2016 following the introduction of VAT at the standard rate of 20%

9. Assistant Director responsible

Joanne Bartholomew
Assistant Director - Place
Tel - (01484) 221000
Email - joanne.bartholomew@kirklees.gov.uk

PROPOSED LOCAL LAND CHARGES SEARCH FEES (Following the introduction of VAT at 20% on 4 July 2016)

<u>Search Option</u>	<u>Current Charge</u>	<u>Charge inc VAT</u>	<u>Additional Parcel</u>	<u>Additional Parcel inc VAT</u>
Full Search RESIDENTIAL - Comprising a LLC1 & Con29R	£75.00	£82.00	£21.00 (£1 LLC1 & £20 Con29)	£25.00 (£1 & £24)
Full Search COMMERCIAL - Comprising a LLC1 and Con29R	£85.00	£94.00	£21.00 (£1 LLC1 & £20 Con29)	£25.00 (£1 & £24)
Form Con29O question 4	Search not offered		Search not offered	
Form Con29O questions 5 – 21	£7.00 each	£8.40	N/A	N/A
Form Con29O question 22	£14.00	£16.80	N/A	N/A
Administration fee (if questions are independent of full search)	£5.00	£5.00 (NB currently VATable)		
Form LLC1 official search of the register	£40.00	£40.00 (NB not VATable)	£1.00	£1.00
Form Con29R RESIDENTIAL	£35.00	£42.00	£20.00	£24.00
Form Con29R COMMERCIAL	£45.00	£54.00	£20.00	£24.00
Peak District National Park searches ¹	£22.00	£26.40	N/A	N/A

Notes

1. Peak District National Park searches are carried out by the Peak District National Park Authority who also set the fee.

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Name of meeting: Cabinet

Date: 24th March 2016

Title of report: District Committee Budgets 2016/17

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes
Is it in the Council's Forward Plan?	
Is it eligible for "call in" by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman, Ruth Redfern and David Smith
Is it signed off by the Director of Resources?	15/03/2016
Is it signed off by the Assistant Director – Legal, Governance & Monitoring?	Karl Larrad 16/03/2016
Cabinet member portfolio	Cllr David Sheard

Electoral [wards](#) affected: All

Ward councillors consulted: n/a

Public or private: Public

1. Purpose of report

To provide Cabinet with an update on District Committee year end spend and recommend a set of criteria for district committee budgets for 2016/17.

2. Key points

Appendix 1 of this report sets out the District Committee's activity fund and New Homes Bonus 2016/17, and budgets carried forward from 2015/16.

The report sets out a framework and criteria for District Committee devolved budgets which is:

- (i) Flexible enough to allow varied and diverse projects, activities and services,
- (ii) Makes a positive contribution to New Council priorities
- (iii) Leads to better outcomes for local people.

With the current constraints on public finances, it is essential to find new ways of working that support the delivery of New Council priorities and themes while at

the same time making savings. With the resources available to them, District Committees/Councillors are in a strong position to deliver more efficient and effective services that better meet resident's needs.

It should be noted that District Committees should not be seen as a solution to shrinking budgets; however the extent to which they enable more responsible, collaborative and innovative ways of working can make a major contribution to alleviating the problem.

3. Criteria for allocation of Activity Budget

For the District Committee activity budget and carry forward from 2015/16, recommended criteria are:-

- 3.1 Funding is used to deliver projects, activities or services which support Plan of Place and/or ward priorities.
- 3.2 District Committees can choose to have a community grants programme to support communities to do more for themselves and each other. Encouraging community groups to deliver activities that provide genuine community benefit, address community need, bring communities together and promote social cohesion.
- 3.3 Grants to community organisations are maximised by encouraging match funding so every £1 invested levers in at least £1 in match funding or in kind support e.g. through other grants or volunteering.
- 3.4 Funding is used to fund projects that demonstrate innovation, new ways of working, partnership involvement and lever in match funding.

4. Criteria for allocation of New Homes Bonus Budget:-

- 4.1 Funding is used to help deliver priorities and actions contained in the Early Intervention & Prevention and Economic Resilience work programmes that are evidence based. Information from both work programmes will be shared with District Committees in the new municipal year to help inform how funding could be allocated.
- 4.2 Funding is used to invest in services and infrastructure to alleviate the impact and pressure where new homes development has taken place.
- 4.3 Projects that demonstrate innovation, new ways of working, encourage partnership involvement and that deliver benefits across several wards are encouraged.
- 4.4 Funding is used to extend or expand existing prototypes to a new area/new customers.
- 4.5 Funding is used to bring forward small sites for housing.

- 4.6 A pre-application process is developed that (i) provides initial information to assess if proposals meet the funding criteria, (ii) identifies the outcomes and benefits of the proposal and (iii) allows services to assess what level and type of officer support is required to develop proposals.
- 4.7 Examples of the types of schemes that are not eligible for new homes bonus funds will be shared with District Committees in the new municipal year.

5. For all budgets devolved to District Committees the following principles are recommended:-

- 5.1 Funding should not commit the Council to any future maintenance liability, unless a 5 year commuted lump sum is included in the budget.
- 5.2 Budgets delegated to District Committees should not be used to fill gaps created as a result of budget reductions already approved by the Council.

6. Consultees and their opinions

The views of Leadership Management Team have been drawn upon in recommending the criteria for District Committee budgets for 2016/17

7. Next steps

Subject to approval from Cabinet, to implement the recommended criteria and process for district committee budgets for 2016/17

8. Officer recommendations and reasons

Cabinet is requested to consider and approve the criteria set out in paragraphs 3, 4 and 5 of this report.

9. Cabinet portfolio holder recommendation

The Leader of the Council has been consulted and supports the proposed criteria as outlined in this report.

10. Contact officer and relevant papers

Vina Randhawa, Senior Area and Neighbourhood Officer, Communities and Leisure

Appendix 1 – District Committee Budget Allocation 2016/17

11. Directors responsible

Jacqui Gedman, Director of Economy, Skills and the Environment
Ruth Redfern, Director of Communities Transformation and Change
David Smith, Director of Resources

District Committee Budgets	New Homes Bonus (NHB) New Allocation 2016/17	New Homes Bonus carry forward from 2015/16 (Note 1)	Activity Fund (revenue) New Allocation 2016/17	Activity fund (revenue) carry forward from 2015/16 (Note 2)	Activity fund (capital) carry forward (Note 3)	Total
Batley and Spen		£264,081	£77,460	£73,648	£104,779	£519,968
Dewsbury and Mirfield		£123,780	£51,640	£51,386	£102,568	£329,374
Huddersfield		£226,355	£90,370	£123,716	£254,315	£694,756
Kirklees Rural		£150,084	£77,460	£90,456	£115,415	£433,415
Sub Total		£764,300	£296,930	£339,206	£577,077	£1,977,513
NHB 2016/17	£926,000					£926,000
Total						£2,903,513
Notes						
1. The New Homes Bonus carry forward represents the total unspent balance. For information the total unspent balance with no commitments is £461,492						
2. The Activity Fund (revenue) carry forward represents the total unspent balance. For information the total unspent balance with no commitments is £323,019						
3. The Activity Fund (capital) carry forward represents the total unspent balance. For information the total unspent balance with no commitments is £196,697						