



## Report of Chief Planning Officer

### Report to Director of City Development

Date: 28th October 2015

**Subject: Deputation to Full Council 16<sup>th</sup> September 2015 – Highbury Works, Meanwood Public Open Space- Council response**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Moortown		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

### Summary of main issues

1. The deputation to Full Council on 16<sup>th</sup> September 2015 by local residents in the Meanwood Valley Partnership concerns the state, maintenance and future ownership of land at Highbury Works designated as public open space and a cricket pitch as part of a Section 106 agreement in 1997
2. Following an internal review, officers will work with the group and the present owners to seek to achieve the original objectives for the land as public open space. It is intended to do this by dialogue and engagement/ negotiation initially before considering whether any formal action is required.

### Recommendations

3. The Director of City Development is asked to note and endorse the approach set out here and publish this report as the formal response to the deputation to Full Council in September.
4. Officers will write formally to Avant Homes as a consequence and keep local residents and ward members informed of progress.

## **1 Purpose of this report**

- 1.1 A Working Group of the Meanwood Valley Partnership representing Weetwood, Far Headingley and Meanwood residents made a deputation to Full Council on 16<sup>th</sup> September 2015. The subject matter of the deputation was the poor state of the public open space areas around the Highbury works development, their lack of maintenance and their future. The residents called upon the Council to work with local residents, enforce legal clauses in the Section 106 agreement and assist in giving a future to the spaces by varying the Section 106 to enable the spaces and associated maintenance costs to be passed to Highbury Works Community Trust. Local residents are in the process of establishing the Trust and have applied to the Charity Commission to set up a new Charitable Incorporated Organisation with the intention of taking ownership of the site, to restore it and run it for sport and recreation in Meanwood.
- 1.2 This report sets out the response of the Council to the deputation and the suggested way forward.

## **2 Background information**

- 2.1 Planning permission was granted back in June 1997 for the development of Highbury Works involving the conversion of existing mill buildings and new build for a Q unit to the front of the site and new housing to the rear. The permission was granted subject to a Section 106 agreement with Country & Metropolitan Homes (the developer and owner at the time) which include a number of planning obligations including works to the millpond, off site beck improvements, the installation of a pedestrian crossing, works to the Meanwood Trail and the laying out and dedication arrangements for two areas of open space within the site and the retention of the cricket pitch as a cricket pitch.
- 2.2 The development was carried out at the end of the 1990s and a significant passage of time has now elapsed. It is understood that Country & Metropolitan Homes subsequently went into administration. The two areas of public open space have not been transferred to the Council and the maintenance sums in the Section 106 agreement to enable that to happen, totalling some £44,308, have not been paid to the Council.
- 2.3 Local residents are concerned about the condition of the land and that the cricket pitch has now been fenced off and is being used for the grazing of horses. It is understood that the ownership of the public open space areas now rests with Gladedale (South Yorkshire) Ltd, part of the Avant Homes group of companies.
- 2.4 Local residents have sought to engage with Avant Homes about the site and met them in February 2015. It is clear that Avant want to minimise their liability at Meanwood and they have proposed further housing development of the site and in return would dedicate the remaining land and maintenance sum to the local community to manage and own. Local residents have rejected this approach and are looking to the Local Planning Authority to enforce the provisions of the original Section 106 agreement.

### **3 Main issues**

- 3.1 The Council has obtained legal advice regarding the wording of the Section 106 agreement and what has happened and the realistic prospects of being able to pursue the current land owners. A separate legal opinion has been provided to local residents which suggests a more positive prospect of enforcing the covenants made.
- 3.2 Council officers have met since the deputation to Council and reviewed the case. It is clear that the provision of the public open space areas was a clear requirement and component of the scheme in the granting of planning permission and so the future of these areas and their maintenance remains an important aim.
- 3.3 The Section 106 agreement was structured on the basis that the areas of public open space would be dedicated to the Council with maintenance sums and this has not happened. However the wording used in the legal agreement states that;

***"The Developer shall maintain the Public Open Space Area 1 and Area 2 and the Meanwood Trail Landscaping Works respectively for a minimum period of 12 months from practical completion and until that land is transferred to the Council"***

As the areas have not been transferred to the Council there remains a liability on the owner to maintain these areas and the Meanwood Trail.

- 3.4 The Council will therefore contact Avant Homes in the first instance to make them aware of their liabilities and seek to enter into dialogue to secure the future of these areas and the cricket pitch. In doing so we will also seek to keep the local residents and ward members informed to see if a solution can be reached which is acceptable to all parties and which transfers the land to the local community to manage and maintain in the future.

### **4 Corporate Considerations**

#### **4.1 Consultation and Engagement**

- 4.1.1 Local residents have taken strong initiatives locally in this case to pursue objectives which are fully in line with the original planning permission. The Council will work with them to pursue these aims.

#### **4.2 Equality and Diversity / Cohesion and Integration**

- 4.2.1 No particular issues are raised under this heading.

#### **4.3 Council policies and Best Council Plan**

- 4.3.1 The residents seek outcomes which are fully in line with the granting of the original planning permission and in line with policy and that the outcomes should be as originally sought when permission was given. Not to achieve that would undermine confidence in the planning system to deliver outcomes which have been the subject of legal covenants.

#### **4.4 Resources and value for money**

- 4.4.1 Initially the pursuit of securing the maintenance of the open spaces is a matter of planning enforcement and negotiation / engagement to find a solution. More formal action will involve additional resource and this will only be pursued if negotiations do not yield a satisfactory outcome. Ultimately the enforcing of Section 106 obligations upon an unwilling owner can only be pursued through High Court action which can be expensive and lengthy..

#### **4.5 Legal Implications, Access to Information and Call In**

- 4.5.1 The legal implications come down to the enforceability of the covenants and advice has been received in relation to that. This report is not subject to call in and will be published as a response to the deputation to Full Council.

#### **4.6 Risk Management**

- 4.6.1 There are no particular risk implications at this stage apart from pursuing a matter where the development was implemented and completed some years ago.

### **5 Conclusions**

- 5.1 The deputation from local residents raises clear concerns about the condition, maintenance and future of two areas of public open space which were clear components of the original planning permission for the reuse of the mills buildings and new housing at Highbury Works. Whilst differing legal advice has been received it is appropriate to pursue the matter with the present owners and local residents to see if a solution can be found to satisfy all parties. At the end of that process if a satisfactory resolution has not been reached further decisions may then need to be made as to whether formal action should be pursued through the Courts.

### **6 Recommendations**

- 6.1 The Director of City Development is asked to note and endorse the approach set out here and publish this report as the formal response to the deputation to Full Council in September.
- 6.2 Officers will write formally to Avant Homes as a consequence and keep local residents and ward members informed of progress.

### **7 Background documents<sup>1</sup>**

- 7.1 Deputation to Full Council on 16<sup>th</sup> September 2015.

---

<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.