

**North East Derbyshire District Council**

**Cabinet**

**31 October 2018**

**Appropriation of Land (Housing Revenue Account to General Fund)**

**Report of Councillor G Baxter MBE, Leader of the Council and Portfolio Holder for Corporate Strategy and Transformation**

This report is public

**Purpose of the Report**

- To seek approval to appropriate land under section 122 of the Local Government Act 1972 for purposes set out in section 226(a) of the Town and Country Planning Act 1990.
- The Council wishes to facilitate the redevelopment of the site which has long been vacant. This is a step to enable that to happen.

**1 Report Details**

- 1.1 The site shown on the attached plan at the former Dronfield Housing Office is currently listed as land within the Council's Housing Revenue Account (HRA). It has not been required for this purpose for a number of years and in recent months Cabinet has considered proposals to develop the site which will be beneficial to the area.
- 1.2 Section 122 of the Local Government Act 1972 allows an authority to appropriate land and property that it holds for one purpose but no longer requires for that purpose for another purpose provided that the new purpose is authorised by statute. Sections 226(a) and 227 of the Town and Country Planning Act 1990 authorises local authorities to acquire land to facilitate the development of that land.
- 1.3 As part of completing the transfer, an adjustment equal to the certified market value of the land will need to be made to the Capital Financing Requirements (CFR) of both funds.

**2 Conclusions and Reasons for Recommendation**

- 2.1 The report seeks approval to appropriate the unused land at the former Dronfield Housing Office site from the HRA to the General Fund in order to develop the site. The land is no longer required for the purposes for which it is currently held and the Council is authorised to acquire the land for the proposed purpose.

2.2 In addition, pursuant to section 203 of the Housing and Planning Act 2016, appropriation of land will result in any private rights over the land, such as easements or restrictive covenants being converted into claims for compensation, thus allowing development of the land despite the existence of these rights. There is a covenant on the land which restricts the use of the land for bungalows and flats for aged people of Dronfield. This covenant is not correctly worded for the covenant to run with the land meaning that it only takes effect as a contractual commitment which can only be enforced by the contracting parties. As the covenant was entered into in 1949 it is unlikely that this contractual term could be enforced. The effect of the appropriation will be to enable the land to be developed free of this restriction and in the unlikely event that someone seeks to enforce the covenant they will be entitled to compensation only.

2.3 The risk of a valid compensation claim based on the covenant is low.

### **3 Consultation and Equality Impact**

3.1 There are no consultation and equality impact implications from this report.

### **4 Alternative Options and Reasons for Rejection**

4.1 To not appropriate the site and leave as undeveloped land within the HRA.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

5.1.1 Financial issues and implications are covered in the relevant sections throughout this report.

#### **5.2 Legal Implications including Data Protection**

5.2.1 Legal issues and implications are covered in the relevant sections throughout this report.

#### **5.3 Human Resources Implications**

5.3.1 There are no human resource implications arising directly out of this report.

### **6 Recommendations**

~~6.1 That Cabinet determines that the land at the former Dronfield Housing Office shown on the plan attached to the report is no longer required for housing purposes;~~

~~6.2 That Cabinet approve the appropriation of land at the former Dronfield Housing Office under section 122 of the Local Government Act 1972 for planning purposes and the transfer of the land from the HRA to the General Fund.~~

**REVISED RECOMMENDATIONS – 26.10.2018**

- 6.1 ***That Cabinet determines that the land at the former Dronfield Housing Office shown on the plan attached to the report is no longer required for its current designated purpose within the Housing Revenue Account.***
- 6.2 ***That Cabinet approve the appropriation of land at the former Dronfield Housing Office under section 122 of the Local Government Act 1972 for planning purposes and the transfer of the land from the HRA to the General Fund.***

**7 Decision Information**

<p><b>Is the decision a Key Decision?</b>                  A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:                  BDC: Revenue - £75,000 <input type="checkbox"/>                  Capital - £150,000 <input type="checkbox"/>                  NEDDC: Revenue - £100,000 <input type="checkbox"/>                  Capital - £250,000 <input type="checkbox"/>  <input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p><b>Is the decision subject to Call-In?</b>                  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes
<p><b>District Wards Affected</b></p>	Dronfield South
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All

**8 Document Information**

Appendix No	Title
1	Former Dronfield Housing Office Plan
<p><b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)</p>	
None	

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AGIN 4(b) (CAB 1031) 2018 – Appropriation of Land/AJD

# Appendix 1

