
LAND FOR REPLACEMENT PLAYING FIELDS

**Responsible Cabinet Members -Councillor Chris McEwan, Efficiency and Resources
Councillor John Williams, Economy**

**Responsible Directors - Richard Alty – Assistant Chief Executive (Regeneration)
Paul Wildsmith, Director of Corporate Services**

SUMMARY REPORT

Purpose of the Report

1. To seek approval to the Council carrying out the capital works required for the replacement of 2 playing fields for the relocation of Darlington College's playing pitches.
2. To delegate authority to the Director of Corporate Services in consultation with the Cabinet Member with the Efficiency and Resources portfolio to enter into an agreement with Darlington Rugby Club for the maintenance and management of the pitches and use by the College of their facilities.
3. To release the funding, received from Darlington College through a Section 106 agreement associated with the development of the Teesside University, in order to progress the works.

Summary

4. Cabinet has already agreed to the use of Council land adjacent to the Darlington Rugby Club at Blackwell Meadows. (6th October 2009) At that time the proposal was for Darlington College to carry out the works to form the playing pitches and to ensure arrangements for the management and maintenance of the pitches and at no cost to the Council. It is now being proposed that Darlington College will put the Council in funds to both carry out the works and maintain the pitches for a period of 15 years. This is outside the terms of the original Cabinet resolution and hence fresh consideration needs to be given by Cabinet to this proposal to allow the completion of the Section 106 agreement.
5. The proposed development by Teesside University on land to the rear of Darlington College will mean the loss of 2 football pitches (one full-sized and one training) equating to some 1.6 hectares of playing fields. Sport England have no objection to the grant of planning permission providing that appropriate legal agreements are entered into to ensure that replacement pitches are developed elsewhere within 12 months of the University development commencing.

6. In October 2009, Cabinet approved the use of land adjacent to the Darlington Rugby Club at Blackwell Meadows as the best solution for the playing fields lost at the College. This area has the potential to contribute to an additional longer term provision of pitches and fields including a commitment to replace playing fields lost as a consequence of the St Aidan's Academy application at Hundens Park.
7. It was reported to Cabinet on 06 October 2009, that it would be the responsibility of the College to fund the development of playing pitches at Blackwell Meadows along with any required ancillary facilities and to put in place a regime for their maintenance and management. This remains the case but legal advice to the University has led to a change in their arrangements, whereby the College are now proposing to put the Council into funds to carry out the works and for the Council to enter into an agreement to deliver the 2 pitches on Blackwell Meadows.
8. Reacting to this change in circumstances, officers have had without prejudice discussions with Darlington Rugby Club about appropriate maintenance and management of the pitches and use by the College of the Rugby Club facilities in association with the pitches. There is a provisional agreement that the Rugby Club is content to enter into such arrangements with the Council and the funds received through the Section 106 agreement will cover these arrangements over a 15 year period.

Recommendation

9. It is recommended that:
 - (a) Cabinet reaffirms its previous decision in October 2009 to make available its own land at Blackwell Meadows for the development of new playing pitches /fields and any necessary ancillary facilities.
 - (b) A reserve called the 'Darlington College Fields Management Reserve' be established to hold the funds for the management and maintenance of the pitches for 15 years
 - (c) The Director of Corporate Services in consultation with the Cabinet Member with the Efficiency and Resources portfolio be authorised:
 - (i) To conclude negotiations with Darlington Rugby Club and complete all necessary documentation for the maintenance and management of the replacement playing pitches and for the use of the rugby club facilities, in line with terms detailed in Appendix 1 to be considered in Part III of the agenda.
 - (ii) To progress negotiations, serve appropriate notices, agree and pay compensation and complete all necessary documentation.
 - (iii) To complete negotiations with relevant parties to agree the relocation of the Darlington College playing fields and procure their delivery.

Reasons

10. The recommendations are supported as :

The securing of the University development is an important step in achieving wider educational skills, prosperity and market positioning for Darlington, in line with the two priorities, and Prosperous and Aspiring themes, in One Darlington: Perfectly Placed.

Richard Alty
Assistant Chief Executive (Regeneration)

Paul Wildsmith
Director of Corporate Services

Background Papers

Planning Application file for the development of the Teesside University at Darlington College.
Ref no. 09/00530/FUL.

Rebecca Dent: Extension 2041

S17 Crime and Disorder	No impact.
Health and Well Being	Encouraging healthier lifestyles through physical exercise.
Sustainability	By increasing the provision of playing fields within an accessible location in Darlington, this has the potential to reduce travel
Diversity	There are no issues relating to Diversity which this report needs to address.
Wards Affected	Located in Lingfield, Eastbourne & Park West.
Groups Affected	The impact of the report on any Group is considered to be minimal.
Budget and Policy Framework	Darlington College will fund replacement pitches and associated facilities. There is no change proposed to the budget and policy framework.
Key Decision	Yes.
Urgent Decision	Yes. In order to meet the University's development schedule.
One Darlington: Perfectly Placed	This report supports the Perfectly Placed priority, through the Aspiring and Prosperous Themes, in facilitating the University Development in Darlington.
Efficiency	Construction of replacement pitches to satisfy Sport England for those lost jointly to the Academy & University would provide efficiencies. There are also efficiencies available from utilising the established Rugby Club facilities and the potential for the maintenance and management of the site to be handled by a third party

MAIN REPORT

Information and Analysis

Background

11. On 06 October 2009, Cabinet resolved that:
 - (a) The use of Council owned land at Blackwell Meadows, as shown on the plan appended to the submitted report, and/or north of Darlington Football club, for the development of new playing pitches/fields and any necessary ancillary facilities, be agreed, in principle.
 - (b) That Officers be authorised to commence negotiations with relevant parties to agree the relocation of the Darlington College playing fields to land at Blackwell Meadows and/or north of Darlington Football Club, at no financial cost to the Council
 - (c) That the Director of Corporate Services, in consultation with the Cabinet Member with the Efficiency and Resources Portfolio, be authorised to progress negotiations, serve appropriate notices, agree compensation and complete all necessary documentation.
 - (d) That Officers continue to explore the relocation of playing fields (1.86Ha) lost to the St Aidan's Academy development.
12. Sport England has confirmed it has no objection to the University being granted planning permission subject to a Section 106 Agreement for the delivery of 2 replacement playing pitches elsewhere in the Borough.
13. Darlington College had agreed to construct the replacement pitches and put in place associated requirements for maintenance, management and ancillary facilities. However, the University have recently informed the Council and College that they are not willing to enter into their contractual arrangements whilst there remains an element of risk to the University should the College fail to meet its obligations under the proposed Section 106 agreement. However, the University's concern can be overcome by the College fully discharging its obligations under a Section 106 agreement by paying sums of money to the Council to cover the capital and revenue costs of the pitches prior to the development commencing. On so doing the Council would be obligated to use the money to provide and maintain the pitches.
14. The University wish to enter into contracts with designers and builders for the new University building by the 18th January 2010. In order for that to occur on schedule the relevant section 106 agreement needs to be completed together with an agreement for the management of the pitches with the Darlington Rugby Club. The planning permission can then be issued.
15. The best solution in these circumstances is for the College to put the Council in funds for development of the pitches and associated maintenance, management and facilities for the next 15 years.

Financial Implications

16. There should be low financial risk to the Council as the payments calculated for the provision of the pitches and associated running costs have been calculated with a generous contingency. Community Services have prepared a detailed cost plan, identifying all of the capital costs in delivery of the 2 pitches at Blackwell Meadows. The cost plan includes a 10% contingency and 10% design risk allowance. The costs are shown in the table in the Appendix to this report to be considered in Part III of the agenda.
17. The proposed arrangements do however transfer the contractual risk to the Council to perform the obligations on receipt of the money from the Section 106 agreement.
18. The Chairman of the Rugby Club has agreed to accept a financial contribution in return for the maintenance and management of the pitches and use of their facilities. This is set out in Part III of the report. An agreement between the Council and the Club will need to be drawn up to finalise this arrangement. Whilst this is recognised as the preferred arrangement between all of the parties there would be a residual risk to the longer term provision of changing rooms should the Rugby Club falter. However, it is understood that this arrangement would strengthen the financial position of the Rugby Club and Officers are continuing to work on the longer term provision of sports and recreational facilities at Blackwell Meadows.
19. The College have agreed to put the Council in funds for the full capital costs and revenue costs for 15 years. This will include the contingency and design risk allowance. The funds for the 15 year agreement would need to be held in a reserve created specifically for this purpose, which requires Cabinet approval. This 15 year maintenance period is exactly the same as would have been originally negotiated within the original Section 106 agreement and therefore does not bring any additional burdens to the Council on the use of its land. A breakdown of costs and therefore funds to be paid to the Council under the Section 106 Agreement is set out in the Part 111 Appendix to this report.
20. The contract for delivery of the pitches is proposed to be on an open book basis whereby the College will receive full information on the delivery costs. Should the actual capital costs be lower than the sum provided to the Council, the College will be entitled to receive the difference back. This will be confirmed in a Legal agreement.
21. The Council will be responsible for the capital costs of the works, project management, design and procurement, compensation and construction.
22. The land required for the pitches at Blackwell Meadows is currently in agricultural production and subject to an agricultural tenancy. This tenancy will need to be terminated and the tenant farmer duly compensated. The College have agreed to pay the necessary compensation.
23. The tenant farmer has been informed of the proposal to use part of his tenanted land as playing pitches.

24. Following the change of approach by the University and College, there is now no need for the Council to enter into a lease agreement with the College to enable their construction and subsequent use of the playing fields. The playing fields will now be constructed by the Council and remain Council pitches, managed and maintained through the Rugby Club for the next 15 years.
25. Accordingly, it is not proposed to charge the College a consideration for the land. Further, it is proposed that the value of the land forgone may be considered as match funding in the event of the Council seeking any external funding to progress the provision of the additional pitches required by Sport England to replace those lost at Hundens Park by the development of St Aiden's Academy.

Outcome of Consultation

26. No consultation has been undertaken at this stage with the general public but the schemes will require planning permission and will be subject to consultation processes.

Summary and Conclusion

27. It is crucial that the College are able to replace, within a reasonable timescale, playing fields and any necessary ancillary facilities that will become lost to the University Development in order to comply with Sport England's requirements.
28. Blackwell Meadows is the preferred location for the relocation given that it offers the opportunity of being developed as a 'hub' site with efficiencies available from utilising the established Rugby Club facilities, the maintenance and management of the site to be handled by a third party, and the ease with which it can be implemented.
29. Due to the University's objection to the potential liability to them under the original terms of the Section 106 for delivery of the pitches, this option will enable the development of Teesside University in Darlington within the current development schedule.