

Appendix 4- Justification for recommending Option B (building on only Fire Service Land):

The reason why it is considered more appropriate for the project to be developed entirely on the Fire Authority land is due to the complexity in resolving legal issues and the possible expenditure in relation to several different issues affecting the Council owned land, the Church land, Scottish Powers interests and Bright Street. Detail with each of these issues is expanded below:

The Council

The Council has good title to the majority of the site but there are some pockets of land relating to the site of former properties which were not acquired using compulsory purchase powers. The CPO powers are now obsolete. Also some of the former roads and passages are not included in our title. We may be able to persuade the Land Registry to add the site of some of the roads and passageways to our title but we would struggle to persuade the Land Registry that we now have any better claim than anyone else in relation to some of the other areas. We could not be said to be in exclusive occupation of these pockets of land and therefore a claim based on adverse possession would probably fail.

The Church

The Church owns a freehold interest in part of the site together with a long leasehold interest in the adjoining buildings. Recent valuation carried out on the land occupied by the church also highlighted complexities, elements of the area have a clause to state they can strictly only be used for Methodist purposes.

Scottish Power

The extent of Scottish Power's ownership is not clear but there is definitely a substation on the site which is under their control, and they probably also have title to some of the land leading to the substation. There would also be significant cost implications to removing and relocating this substation.

Bright Street

Bright Street was stopped up in October 1970 which means that from the date of the Stopping Up Order it was no longer an adopted highway maintainable by the Council as the Highway Authority. However, since the original closure was made it has continued to be used as a road and The Director of Technical Services considers that it is still a highway in law. It is lit, partly paved, has double yellow lines on it and the public at large have both vehicular and pedestrian access to it. The highway would require a formal Closing Order pursuant to current legislation to extinguish all rights over and under it and it is envisaged that there would be objections to any proposed closure, particularly from the numerous statutory supply bodies that have cables and equipment in the location. Those objections may be removed if the cables and supply equipment were diverted or relocated but there could be a significant cost in diverting those services and equipment. It is also envisaged that there could be objections from the Church authorities who currently have access to their premises from Bright Street.

The other complication will be in relation to the ownership of the site of the road if a new Closing Order was made. The half width of Bright Street abutting the fire station is included in the title of the Fire Authority and at present the other half is strictly in nobody's "ownership". If the road was closed then the owners of the land and buildings fronting the other half width could claim title to it and the Land Registry would accept such a claim. The Council does not own all of the frontage on that side of the road as the Church's title also extends to Bright

Street, Therefore the Council would not be able to claim ownership of the whole of the half width of Bright Street.

In summary, to address these legal issues would have significant time and cost implications. We need to commit to the utilising the land available from the Fire Service for the Youth Zone Project or we could be at risk of losing it and they may find an alternative use.

Other factors contributing to this recommendation are:

1. The footprint available from the Fire Service is sufficient to build a Youth Zone, it will be the equivalent to a recently developed one in Oldham which includes all the facilities originally proposed.
2. The capital and revenue costs will be less on a smaller site.

Overall it will be the simpler, cheaper and quicker option.