Dear Sir/Madam,

The Cabinet Member for the Environment (Councillor W.H. Sheppard) is to consider the following report and make a decision on Tuesday, 26th October, 2010 at 5.00 p.m. in Interview Room D, Town Hall, Nuneaton.

Yours faithfully,

CHRISTINE KERR

Chief Executive

AGENDA

PUBLIC BUSINESS

1. EVACUATION PROCEDURE

A fire drill is not expected, so if the alarm sounds please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside the Yorkshire Bank on the opposite side of the road.

Please exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.
2. **PUBLIC CONSULTATION** - Members of the public will be given the opportunity to speak on specific agenda items if notice has been received.

3. **DEED OF VARIATION RELATING TO HARTSHILL AND NUNEATON JOINT RECREATION GROUND** – Report of the Assistant Director – Corporate Governance attached. *(Page 3)*
**Individual Cabinet Member Decision - Environment - 26th October, 2010**

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<th>Date:</th>
<th>26 October 2010</th>
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<tr>
<td>Subject:</td>
<td>Deed of Variation relating to Hartshill and Nuneaton Joint Recreation Ground</td>
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<tr>
<td>Portfolio:</td>
<td>Environment</td>
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<tr>
<td>From:</td>
<td>Assistant Director, Corporate Governance</td>
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**Summary:**
To seek authority to execute as a deed, a Deed of Variation in relation to an agreement in respect of Hartshill and Nuneaton Joint Recreation Ground Agreement between the Parish Council and the Council.

**Recommendations:**
That the Assistant Director – Corporate Governance to be authorised to execute as a deed, a Deed of Variation in relation to Hartshill and Nuneaton Joint Recreation Ground Agreement by affixing the Common Seal of Nuneaton and Bedworth Borough Council.

**Reasons:**
In 1990 the United Kingdom rating system was fundamentally changed and by virtue of the Local Government and Finance Act 1989 became Council Tax as set out in the Local Authorities Council Tax (Administration and Enforcement) Regulations 1992.

With the abandonment of the old rating system and the repeal of the General Rate Act 1967, the mechanism for calculating the relative proportions of the Council’s and the Parish Council’s contributions ceased to exit and a new mechanism is now required.

A calculation, based on the last known two penny rate in 1989, increased in line with inflation between 1990 and 2009 and was prepared by the Council for approval by the Parish Council. On 21 January 2009 the Parish Council approved the proposed calculation and also agreed that the indenture dated 13 May 1924 be amended as set out in Appendix 1 and has signed a deed of variation to that effect.
<table>
<thead>
<tr>
<th>Options:</th>
<th>To overspend or execute the deed of variation</th>
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<tbody>
<tr>
<td>Subject to call-in:</td>
<td>Yes</td>
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<tr>
<td>Forward plan:</td>
<td>No</td>
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<tr>
<td>Corporate priorities:</td>
<td>N/A</td>
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<tr>
<td>Consultation Undertaken:</td>
<td>Head of Accounting</td>
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<td></td>
<td>Environmental Services</td>
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<tr>
<td>Relevant statutes or policy:</td>
<td>Mining Industry Act 1920</td>
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<td></td>
<td>Local Government and Finance Act 1989</td>
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<td></td>
<td>General Rate Act 1967</td>
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<td>Equal Opportunity Implications:</td>
<td>None</td>
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<td>Human Resources Implications:</td>
<td>None</td>
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<td>Financial Implications:</td>
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<td>Health Inequalities Implications:</td>
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<td>Risk Management Implications:</td>
<td>None</td>
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<tr>
<td>Environmental Implications:</td>
<td>None</td>
</tr>
<tr>
<td>Legal Implications:</td>
<td>Execution of Deed of Variation</td>
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</tbody>
</table>
Contact Details: Philip Richardson  
Assistant Director – Corporate Governance  
02476 376233
1. **Purpose of Report**

1.1 To seek authority to execute as a deed, a Deed of Variation in relation to an agreement in respect of Hartshill and Nuneaton Joint Recreation Ground Agreement between the Parish Council and the Council.

2. **Background**

2.1 The Miners Welfare Committee constituted under the Mining Industry Act 1920, after consultation with the District Welfare Committee of the Warwickshire District, providing land for an Open Space or Public Recreation Ground and Park for the use and enjoyment of the inhabitants residing in the district of the Parish Council and the Nuneaton and Bedworth Borough Council, made an allocation of two thousand pounds from the fund constituted by Section 20 of the Mining Industry Act 1920 for the acquisition of a piece of land situated at the rear of Camp Hill Road and Victoria Road Hartshill.

2.2 The said piece of land was conveyed to the Parish Council by Jees Hartshill Granite and Brick Company Ltd/Mortgagees absolutely to be held by them for the purposes of a Public Recreation Ground or Public Park.

2.3 In order to give effect to the conditions and terms on which the allocation was made by the Miners Welfare Committee, the Parish Council and Nuneaton and Bedworth Borough Council signed an indenture dated 13 May 1924 the “Indenture”. The said indenture is enclosed in Appendix 1 together with a copy of the Deed of Variation.

2.4 In 1990 the United Kingdom rating system was fundamentally changed and by virtue of the Local Government and Finance Act 1989 became Council Tax as set out in the Local Authorities Council Tax (Administration and Enforcement) Regulations 1992.

2.5 With the abandonment of the old rating system and the repeal of the General Rate Act 1967, the mechanism for calculating the relative proportions of the Council’s and the Parish Council’s contributions ceased to exit and a new mechanism is now required.
2.6 A calculation, based on the last known two penny rate in 1989, increased in line with inflation between 1990 and 2009 and was prepared by the Council for approval by the Parish Council. On 21 January 2009 the Parish Council approved the proposed calculation and also agreed that the indenture dated 13 May 1924 be amended as set out in Appendix 1 and has signed a deed of variation to that effect.

3. **Recommendations**

3.1 That the Assistant Director – Corporate Governance to be authorised to execute as a deed, a Deed of Variation in relation to Hartshill and Nuneaton Joint Recreation Ground Agreement by affixing the Common Seal of Nuneaton and Bedworth Borough Council.
This Deed of Variation is made the                    day of                   2010
BETWEEN (1) Hartshill Parish Council of PO Box 5036 Nuneaton CV11 9FN (hereinafter “the Council”) and (2) Nuneaton and Bedworth Borough Council of Town Hall, Coton Road, Nuneaton, CV11 5AA (hereinafter “the Corporation ”)

WHEREAS:-

1. The Miners Welfare Committee constituted under the Mining Industry Act 1920, after consultation with the District Welfare Committee of the Warwickshire District, providing land for an Open Space or Public Recreation Ground and Park for the use and enjoyment of the inhabitants residing in the district of the Council (Parish Council) and the Corporation (Nuneaton and Bedworth Borough Council), made an allocation of two thousand pounds from the fund constituted by Section 20 of the Mining Industry Act 1920 for the acquisition of a piece of land situated at the rear of Camp Hill Road and Victoria Road Hartshill

2. The said piece of land was conveyed to the Parish Council by Jees Hartshill Granite and Brick Company Ltd/Mortgagees absolutely to be held by them for the purposes of a Public Recreation Ground or Public Park

3. In order to give effect to the conditions and terms on which the allocation was made by the Miners Welfare Committee, the Parish Council and Nuneaton and Bedworth Borough Council signed an indenture dated 13 May 1924 the “Indenture”). The said indenture is amended as follows:

4. In 1990 the United Kingdom rating system was fundamentally changed and by virtue of the Local Government and Finance Act 1989 became Council Tax as set out in the Local Authorities Council Tax (Administration and Enforcement) Regulations 1992.
5. With the abandonment of the old rating system and the repeal of the General Rate Act 1967, the mechanism for calculating the relative proportions of the Corporation and the Council’s contributions ceased to exist and a new mechanism is now required.

6. A calculation, based on the last known two penny rate in 1989, increased in line with inflation between 1990 and 2009 and was prepared by the Corporation for approval by the Council and on 21 January 2009 the Council approved the proposed calculation.

IT IS HEREBY AGREED AS FOLLOWS:

7. For Clause 3 of the said indenture which reads:

‘3. The Joint Committee shall keep proper accounts showing in detail the costs of the maintenance upkeep and management of the said Park or pleasure ground and the costs and expenses incurred by the Joint Committee shall be borne and paid by the Council and the Corporation in equal shares. The total amount to be expended by the Joint Committee in the maintenance upkeep and management of the said Park or Pleasure Ground after deducting any sum which may be received by way of income or revenue therefrom shall be limited to and shall not exceed in any year twice the produce of a two penny rate levied in the Parish of Hartshill’

the following clause shall be substituted:

‘3. (a) The Joint Committee shall keep proper accounts showing in detail the costs of the maintenance upkeep and management of the said Park or pleasure ground and the costs and expenses(after deducting any sum
which may be received by way of income or revenue) incurred by the Joint Committee shall be borne and paid by the Council and the Corporation in equal shares.

(b) The Corporation agrees to pay the precept of £6,600.00 (six thousand and six hundred pounds) representing fifty percent of the Corporation’s contribution for the municipal year 2008/2009 which sum shall be the basis of future payments from the Corporation to the Council for the costs and expenses incurred by the Council for the maintenance upkeep and management of the Park/pleasure ground subject to annual adjustments in line with the Retail Price Index (RPI).

(c) The Corporation shall pay half for the costs and expenses incurred by the Council for the maintenance upkeep and management of the Park/pleasure ground up to the maximum of £6,600.00 (six thousand and six hundred pounds) from 2008/2009 and thereafter pay either that sum or lessor sum or as is due for actual costs and expenses occurred as fifty percent of the Corporation’s contribution.

(d) The RPI increase shall be assessed on the basis of the RPI in September of each year as published by the Office of National Statistics in October of each year. The Corporation will advise the Council of the rate to apply around 15 October of each year.

(e) The Corporation agrees in principle that the Council may request emergency support from the Corporation in the case of a major event occurring in the park. The Corporation will attempt to assist in emergency situations subject to available resources.”
8. From and including the date of this Deed the Council and the Corporation agree that the Indenture shall remain in force and of full effect as varied by this Deed and the terms of the said indenture shall have effect as though the provisions contained in this Deed have been originally contained.

Schedule 1
Indenture dated 13 May 1924

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a deed by affixing
THE COMMON SEAL of NUÈEATON AND BEDWORTH BOROUGH COUNCIL
in the presence of:-

Designated Officer

EXECUTED as a deed by the PARISH COUNCIL) in the presence of:-

Designated and Responsible Officer

Name of Witness (in capitals)
Address of Witness
This Indenture
made the Thirtieth
Day of ,

One Thousand Nine Hundred
and Twenty-four

Between The Parish Council of
Bentfield in the County of Warwick (hereinafter
called "the Council") of the one part and The
Mayor, Aldermen and Burgesses of the
Borough of Henley (hereinafter called
"the Corporation") of the other part.

Whereas the

Miners Welfare Committee constituted under the
Mining Industry Act 1926 after consultation
with the District Welfare Committee of the
Warwickshire District being desirous of
providing land for an Open Space or Public
Recreation Ground and Park for the use and
enjoyment of the inhabitants residing in the
district of the Council and the Corporation have
made an allocation of Two Thousand Pounds
from the fund constituted by Section 26 of
the Mining Industry Act 1926 for the acquisition of a
piece of land containing Nine Acres Sixteen
Vigii, and Thirty-Five Pounds of Freehold Title
situate at the rear of Camp Hill Road and Victoria
Road Bentfield aforesaid

by an

Indenture of even date herewith and made

Between Yeos Bentfield Granite and Brick Company
Limited of the one part and the Council of the
other part the said piece of land was conveyed

to the Council absolutely to be held by them for
the purposes of a Public Recreation Ground or
Public Park and the Committee have

expended or intend to expend out of the said fund
sums in the fencing and development of the said

piece of land as a Recreation Ground or Public
Park and the said Public Recreation

Ground or Public Park shall be available at all
times for the use, enjoyment and benefit of the

inhabitants of the District of the Council and the

Corporation for the time being in order to give effect
to the conditions and terms on which the aforesaid
allocation was made by the Miners Welfare
Committee the Council and the Corporation in
execution of the statutory powers vested in them in
that behalf have agreed to enter into the Agreement
hereinafter contained (Here With Indenurely

1. The Council hereby declare that the said
property comprised in and conveyed by the
before-mentioned Indenture of even date herewith
is conveyed to them under the provisions of
Section 8 of the Local Government Act 1894 and is held
by them for the purposes of a Public Recreation
Ground or Public Park to be available for the
use and enjoyment of the inhabitants of the
Parish of Balsall and the Borough of

2. The said property shall be under the
management and control of a Joint Committee
to be constituted as follows:

The number of Members of the Committee
shall be nine, two of such Members shall be
elected by the District Council of the Borough of
Kunston at their first Meeting on the ninth day
of November in each year two Members shall
be elected by the Parish Council at their Annual
Meeting and two Members shall be nominated by
the District Welfare Committee for the
Warwickshire District; Provided that in the
event of the District Welfare Committee failing
to exist then one Member of the Committee shall
be appointed by the Warwickshire Cathay
Gunners Association and one by the Gunners
Association of Warwickshire or by such other
body or organisation as the Secretary for Mines
may certify as adequately representing the said
Gunners or Miners Association respectively in
the County.

The first Members of the Joint Committee shall
be:

2. William Glion.          Representing the
4. George Henry Bailey.    Representing the
5. William Johnson.         District
The Joint Committee shall at their first meeting or at an adjournment thereof appoint a Chairman and Officials and Secretaries on such reasonable terms of remuneration as they shall deem expedient.

2. The Joint Committee shall keep proper accounts showing in detail the costs of the maintenance, upkeep and management of the said Park or Pleasure Ground and the costs and expenses incurred by the Joint Committee shall be borne and paid by the Council and the Corporation in equal shares. The total amount to be expended by the Joint Committee in the maintenance, upkeep and management of the said Park or Pleasure Ground after deducting any sum which may be received by way of income or revenue therefrom shall be limited to and shall not exceed in any year twice the produce of a two penny rate levied in the Parish of Bramhall.

4. The Council shall make Byelaws to be approved by the Corporation for the regulating of Town's property.

5. The accounts of the Committee shall at all reasonable times be open to the inspection and transcription by any member or official of the Council or the Corporation authorized by them for that purpose without payment.

I/we, the parties herein have caused their common seal to be hereunto affixed the day and year first above written.

The Common Seal of the Parish
Council of Bramhall was
hereunto affixed in the presence of:

[Signature]

William Alfred Auden
Chairman of Parish Council

The Common Seal of the
Municipal Corporation was
hereunto affixed in the presence of:

[Signature]

Mayor

[Signature]

Town Clerk

Individual Cabinet Member Decision - Environment - 26th October, 2010