

Agenda Item No: 5 **Report No:** 35/15
Report Title: The Stanley Turner Ground, Lewes: Potential Sale of Land.
Report To: Trustees of the Stanley Turner Recreation Ground Trust **Date:** 25 February 2015
Cabinet Member: Councillor Ron Maskell
Ward(s) Affected: Lewes Bridge, Castle, Priory
Report By: Gillian Marston – Director of Service Delivery
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Purpose of Report:

To advise the Trustees of the request from the Lewes Sports Club to look at the option of disposing of an area of Trust land at The Stanley Turner Ground, with all proceeds being used for phase 2 improvements to the on-site changing rooms.

Officers Recommendation(s):

- 1 That the Trustees decide whether the sale of Trust land should be considered as an option, with a view to being a potential funding source for changing room improvements.
- 2 That, should the Trustees agree to further consider the sale of the land, officers be authorised to:
 - Give public notice of the proposed disposal, inviting the making of representations, in accordance with section 121 Charities Act 2011
 - Obtain advice from a qualified surveyor in order to comply with section 119 Charities Act
 - Delegate the decision to dispose of the land to officers, subject to taking into consideration :
 - any representations about the proposed disposal made within the time specified in the public notice;
 - the advice obtained from the qualified surveyor; and

- any environmental and financial appraisals.

Reasons for Recommendations

- 1** To respond to the request from the Lewes Sports Club to sell the area of land in question with proceeds going towards the phase 2 changing room improvements.

2 Information

2.1 The Stanley Turner Recreation Ground, located adjacent to the C7 Kingston Road on the periphery of Lewes, is an 17 Ha site consisting of grass sports pitches (Rugby, Cricket and Football), a sports clubhouse and changing pavilion, a spectator stand, a children's play area, farmland (subject to a separate lease agreement) and natural meadowland forming part of an adjacent Site of Special Scientific Interest (SSSI) leading into the Ouse valley.

2.2 The land is the subject of a Charitable Trust established by deed on the 4 April 1934 with the following stated objective:

“That the Corporation “(ie the council acting as trustee)” will forever hereafter support maintain and improve the said land as and for the purposes of a Public Recreation Ground.

That it shall be used for the purposes of a Public Recreation Ground and for no other purpose.”

2.3 The Council, as an entity, is the sole trustee of the Trust. This means that when considering any matter which might affect the recreation ground, councillors must always act in the best interests of the Trust.

2.4 The Council meets the majority of cost of maintaining the site by effectively making a grant to the Trust to cover the shortfall of expenditure compared to income.

2.5 The changing room building is maintained by the Council and is made available on a “pay and play” basis to local sports clubs who hire it.

2.6 Work is about to begin, subject to competitive tenders being returned, to refurbish the ground floor of the changing room building, along with improving fire escape access and the provision of a disabled toilet facility.

2.7 A suggestion has been made by the Lewes Sports Club that an area of Trust land on the south side of the Cockshut, (see Appendix 1) should be sold, with the proceeds being used to refurbish the remainder of the changing room building.

2.8 This land is farmland (approximately 7.5 hectares) which is partially leased to a local farmer as it lies too wet to be used as an area for sports. It also falls within a designated Site of Special Scientific Interest (SSSI), which is legally protected under the Wildlife and Countryside Act

1981. SSSIs are designated due to their important wildlife or geological interest.

- 2.9 This particular SSSI site has been designated due to its drainage ditches, which support a wide variety of water beetles (Coleoptera) & rare snails. There is significant entomological interest throughout the site.
- 2.10 Local Authorities have a duty to protect SSSIs in carrying out their duties and decision making and to further enhance their special conditions.
- 2.11 An estimate of the value of land has been made at £60,000, although this may be less as its potential use and access is limited.
- 2.12 The land would be of limited interest to potential buyers; it is anticipated that it would only be of interest to farmers or wildlife organisations.
- 2.13 Any potential sale of the land would be subject to approval from the Charity Commission, and would require discussions with the current lease holder of part of the potential sale area. The Charity Commission will want the Trustees to be able to explain why it is better for the charity to dispose of the land, and how the charity will benefit.

3 Financial Appraisal

- 3.1 There are no additional financial implications arising from this report at this stage. Should the proposals proceed, more detailed information including a full financial assessment will be provided at the appropriate time.

4 Legal Implications

- 4.1 The Legal Services Department has made the following comments:

This proposal has the following legal implications.

a) Disposal of land by a charity

Section 117 of the Charities Act 2011 provides that no land may be conveyed, transferred, leased or otherwise disposed of by a charity without an order made by the court or the Charity Commission. However, many disposals of charity land do not require an order because the charity trustees follow the procedure in section 119 (obtaining advice from a qualified surveyor).

The additional procedures set out in section 121 must also be followed where the land is held for the purposes of the charity.

b) Additional requirements where disposing of land held for the purposes of the charity

Under section 121(1) the charity trustees must normally follow additional procedural steps where land is held on trusts stipulating that it must be used for the purposes (including any particular purposes) of the charity.

This type of land is often referred to as "designated land" or "specie land". The Stanley Turner Ground is designated / specie land.

Under section 121(1) the charity trustees must:

- Give public notice of the proposed disposal, inviting representations to be made to them within a time specified in the notice, being not less than one month from the date of the notice.
- Take into consideration any representations about the proposed disposal made to them within that time.

Section 121(2) provides that this procedure must be followed before entering into (where applicable) an agreement for the disposal or (if there is no agreement) the disposal itself.

There are some circumstances where section 121(1) will not apply to a disposal of designated land. This includes the Charity Commission giving a direction under section 121(6) that section 121(2) shall not apply to that type of disposal, or that particular disposal. Before giving a direction, the Commission must be satisfied that it is in the interests of the charity to do so.

c) Transactions excluded from the scope of sections 117 to 121

Certain categories of transaction are specifically excluded from the restrictions sections 117 to 121. These include any conveyance, transfer, lease or other disposal made in accordance with a scheme made by the Commission to alter the charity's purposes to allow the charity to dispose of the land.

d) Summary

With regard to the rules relating to designated / specie land, the trustees have a range of options if they wish to explore the potential for disposal of part of the land. The simple approach would be to give public notice of the proposed disposal, inviting representations to be made, and taking any representations into account before making a decision about the proposed disposal (see section 121(1) provisions above). The other options have the potential to be time consuming and would not necessarily bring any additional benefits to the decision-making process. On this occasion the issues appear straightforward, in that the land is not suitable for fulfilling the charitable purpose, and the proceeds would be reinvested in the charity.

The general disposal rules would also require that the trustees follow the procedure in section 119, namely obtaining advice from a qualified surveyor.

5 Sustainability Implications

I have completed the Sustainability Implications Questionnaire (LDC39687) and there are no significant effects as a result of these recommendations.

However, should the sale of the land proceed, there will need to be provisions in place to ensure that the requirements of the SSSI designation are complied with.

6 Risk Management Implications

6.1 I have completed a risk assessment (ref LDC39685) and no new risks will arise if the recommendations are not implemented.

The following risks will arise if the recommendations are implemented and I propose to mitigate these in the following ways:

Risk: The sale of the land could lead to the damage of an environmentally sensitive landscape.

Mitigation: The land is protected by SSSI designation and any sale would be in full consultation with Natural England.

Risk: The sale of the land would not generate enough income for the phase 2 renovation works of the changing rooms and to cover the legal costs of the proposed sale.

Mitigation: The sale of the land would not proceed until a full financial evaluation had taken place.

7 Equality Screening

7.1 I have completed the Sustainability Implications Questionnaire (Ref AF39686) and found no significant equality implications.

8 Appendices

8.1 Appendix 1: Plan of the Stanley Turner Ground, Lewes showing potential area of land for disposal.