

**Report to:** Devolution Committee

**Date:** 14<sup>th</sup> January 2019

**Title:** Devolution of Open Spaces to Town and Parish Councils

**Report of:** Mark Langridge-Kemp, Interim Head of Property and Facilities Shared Service

**Chair of Committee:** Councillor Stephen Catlin

**Ward(s):** All

**Purpose of report:** To update the Committee on progress of Devolution requests from Town and Parish Councils.

**Decision type:** Key

**Officer recommendation(s):**

- (1) That the Devolution Committee notes the progress on Devolution.
- (2) That the Devolution Committee recommends to Cabinet the entering into of a lease/management arrangement for Riverside Country Park with Newhaven Town Council on terms to be agreed and to be reported to Cabinet before completion of that lease/management arrangement.
- (3) That the Devolution Committee recommends to Cabinet the amending of the existing boundary line at Lewes Road Recreation Ground, Newhaven to reflect the boundary of the previous landfill site to enable devolution of the Lewes Road Recreation Ground to Newhaven Town Council.
- (4) That the Devolution Committee further recommends the variation of the standard form of overage provision to allow a specific development, commensurate with the use of the site, to take place at Lewes Road Recreation Ground, Newhaven as outlined at paragraph 2.5 of this report.
- (5) That the Devolution Committee requests:

**(a) Cabinet to consider the devolution to Lewes Town Council of that part of the land at Mountfield Road that is not held in trust; and**

**(b) The Trustee of Mountfield Pleasure Ground Trust and the Trustee of Stanley Turner Recreation Ground (the sole charitable trustee in each case being Lewes District Council) to consider the devolution of these two sites (that are held in trust) to Lewes Town Council. Such devolution will be subject to the Charity Commission agreeing that LTC be substituted as the sole charitable trustee.**

**(6) That the Devolution Committee recommends to Cabinet the devolution of Hollycroft Field to East Chiltington Parish Council.**

**Reasons for recommendations:** (1) To note the progress on Devolution and to agree the next steps for further progress.

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## **1 Introduction**

- 1.1 Special Expense charges for open spaces and recreation areas have been a key driver generating discussions on the devolution of open space assets with Town and Parish Councils.
- 1.2 The Council has agreed that when a Town or Parish Council takes on a devolved asset, it will include the running and administrative costs within its own precept (budget), hence the cost will be included in the local town or parish Council Tax. The District Council will no longer own the asset, it incurs no cost of ownership and the Special Expenses charge made to the town/parish will end.
- 1.3 A template form of transfer agreement has been developed in consultation with the Town and Parish Councils. The template form includes provision for “overage”, which allows a seller to share in certain increases in the value of the property after it has been sold. This provision has been included, along with restrictions in relation to use of the site, in order to preserve the current usage of the site.

## **2 Devolution to Newhaven Town Council (NTC)**

2.1 The first “wave” of transfers currently being progressed are:

- a) East Side Recreation Ground;
- b) Avis Road Recreation Ground;
- c) Drove Park Recreation Ground;
- d) Lewes Road Recreation Ground; and
- e) Valley Road Play Area.

These transfers are actively being dealt with by LDC and NTC solicitors who are working to resolve various issues, some of which involve third party rights (e.g. in relation to access rights). Lewes Road Recreation Ground is being dealt with in conjunction with Riverside Country Park and this report deals with that site below.

2.2 NTC has decided that it would like the devolution of Castle Hill and Meeching Down to take priority over the remaining sites and for work on their transfer to be undertaken next, once the first phase of devolution has been achieved. LDC has agreed to commence work on the transfer of these sites by producing a Report on Title for NTC’s reference.

2.3 Riverside Country Park and Lewes Road Recreation Ground

Riverside Country Park covers approximately 18 hectares of open space. The majority of the site is within the freehold of East Sussex County Council (ESCC) but around one third is owned by LDC, along with Lewes Road Recreation Ground. The land at Riverside Park is not physically divided between the different ownerships and has therefore been viewed as one entity.

The site was historically used as a landfill but the tip was closed in 1981 when restoration work began. The tip included only the north-east corner of Lewes Road Recreation Ground. Riverside is now a Site of Nature Conservation Interest which Newhaven Town Council manage, although no official management agreement appears to have ever been put in place.

ESCC currently monitor the site (both ESCC and LDC owned parts) six times a year due to the inherent risks of the historic waste. A detailed assessment of the site was undertaken in September 2018– the main risks are:

- f) Leachate (liquid draining from the landfill) which is migrating down the site. Modelling suggests that this could continue for the foreseeable future;
- g) Landfill Gas which will deplete over time.

ESCC considers the site relatively low-risk and safe to be used by the public on designated pathways. Advice is that the landfill material should be left undisturbed and caution should be exercised with regards to any excavation or build on the site. Whilst this is sound advice at this point in time, an extreme weather phenomenon could change this position very quickly

## Proposal

- 2.4 ESCC is currently in the process of transferring management of a number of their open space sites and have been in discussion with NTC regarding a lease of the ESCC owned part of the site. NTC has been clear that it is not in a position to take on any future liabilities and ESCC has agreed to retain the freehold and liabilities associated with the landfill but it would regularise the current management of the site undertaken by NTC.

It would make sense for a similar arrangement to be put in place on the LDC owned land that mirrored these arrangements, however, there could be future liabilities associated with this. Similar to the proposed agreement with ESCC, NTC would not accept any future landfill liabilities for the site. ESCC has confirmed that it cannot take these liabilities on for the site as a whole. Therefore LDC will need to retain liability for its portion of the site; in reality, this would be no different to the current situation, a lease mirroring the ESCC agreement could be put in place to finally regularise management of the whole site.

This would leave the land known as Lewes Road Recreation Ground to deal with. NTC has said it would like this site to be devolved to them minus the portion of land in the north-east corner of the site that is known to have been used as previous landfill which would then reside as part of the wider lease agreement.

The Devolution Committee is asked to recommend to Cabinet:

- h) entering into a lease/management arrangement for Riverside Country Park on terms to be agreed and to be reported back to Cabinet before completion of that lease/management agreement;
- i) amending the existing boundary of Lewes Road Recreation Ground to reflect the boundary of the previous landfill site and devolving to NTC in line with the Council's adopted usual form of transfer subject to the amendments discussed at paragraph 2.5 below.

- 2.5 As stated at paragraph 1.3 the template transfer document includes provision for overage in the event that planning permission is granted for certain types of development. NTC may wish to construct a building in the style of the Linklater Pavilion at Lewes Road Recreation Ground and Devolution Committee is asked to approve a variation to the standard form of transfer agreement to allow this. In order that LDC can ensure that it fulfils its statutory duties in relation to obtaining best value it will need to ensure that the use will secure the promotion or improvement of the economic, social or environmental well-being of the local area, and on the basis that the increase in value of the land will not exceed certain limits. LDC will also include provision to ensure that the primary use of the site is open space/recreation ground.

## **3 Devolution to Lewes Town Council (LTC)**

- 3.1 The transfer of ownership of Landport Bottom to LTC was completed on 19 June 2018.

- 3.2 It was agreed at a Devolution Committee meeting dated 27 January 2015 that certain other sites are suitable for negotiation and this list includes Timbervard Play Area, The Paddock Play area (including WCs) and Bell Lane. LDC proposed to LTC that these sites are taken forward for an early devolution, however, LTC declined to proceed with the transfer of these sites.
- 3.3 In relation to further transfers of open spaces (which is the remit for Devolution Committee), LTC asked LDC to consider terms upon which LTC might assume the Trusteeship of the Mountfield Pleasure Ground Trust (which includes Convent Field), including the off-street car park.
- 3.4 LTC notified LDC that LTC may be interested to assume the Trusteeship of the Stanley Turner Trust in a future tranche of devolution.
- 3.5 LDC has said it will look into the possibility of devolving the two areas in trust and the car park at Mountfield Road, subject to LDC retaining operational control of the carpark at Mountfield Road (as it is an integral part of the LDC parking strategy). LDC wishes to retain operational control through a leaseback at a peppercorn rent.
- 3.6 Devolution Committee is asked to recommend to Cabinet (in respect of the part of the land at Mountfield Road that is not held in trust) and to the Trustees of Mountfield Pleasure Ground Trust and Stanley Turner Recreation Ground (the sole charitable trustee in each case being Lewes District Council) the devolution of these two sites. The proposal will need to go before LDC full council, sitting in its capacity as sole charitable trustee of the two trusts. Any such proposal will also be subject to the Charity Commission agreeing that LTC be substituted sole charitable trustee in place of LDC.

#### **4 Other Devolution Projects**

- 4.1 East Chiltington Parish Council (ECPC) has confirmed that it wishes to proceed with devolution of land at Hollycroft. Devolution Committee is asked to agree the recommendation to progress devolution of this land on the basis that the whole of the site including grass verges will be transferred.
- 4.2 This is subject to due diligence and associated matters on the part of ECPC and agreement on the future maintenance of the site.

#### **5 Financial Appraisal**

- 5.1 When an asset is devolved, the cost of ownership passes from LDC to the local Town or Parish Council. When a site is devolved, its value will be removed from the Balance Sheet but, under the local government accounting framework, this technical accounting 'loss' will have no impact on the Council's revenue budgets.

As the Newhaven sites have not yet transferred, it is proposed that the District Council levies special expenses for these sites for 2019/20. If the transfers happen before March 31<sup>st</sup> 2020, which is still anticipated and the contractor is still Burley's, then the District Council would still pay for these sites. It is not deemed necessary to transfer funds mid-year in order to have them returned immediately afterwards to

reflect the cost of the contract. This would not prevent NTC from exercising its powers over that site that has transferred to it. If they were to choose a contractor other than Burley's or deliver it in-house, then the District Council would need to reimburse NTC pro rata.

The District Council is finalising the special expenses details for 2019/20 and will publish the individual parish special expenses in the budget report at Full Council. The transfer of Landport Bottom will reduce the charge for special expenses in Lewes in 2019/20. The charge was £5,650 in 2018/19.

## **6 Legal Implications**

- 6.1 There are no additional legal implications arising as a result of this report.

## **7 Risk Management Implications**

- 7.1 Should it not be possible to agree terms, the matter will be reported to the next meeting of Devolution Committee for a recommendation to Cabinet at a future date

## **8 Equality Screening**

- 8.1 I have carried out an Equality Impact Assessment. There are no equality implications as a result of this report as the land will be transferred on an existing use basis and the report relates to a change of ownership only.

## **9 Appendices**

None.

## **10 Background papers**

None.