

Report to: Cabinet

Date: 27 March 2019

Title: Devolution of open spaces to Town and Parish Councils

Report of: Ian Fitzpatrick, Director of Regeneration and Planning

Cabinet member: Councillor Tony Nicholson

Ward(s): All

Purpose of report: For Cabinet to note progress and consider recommendations from Devolution Committee regarding next steps in the process for devolution of open spaces

Decision type: Key

Officer recommendation(s): That Cabinet agrees the following recommendations from Devolution Committee:

(1) To enter into 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 agreement.

(2) To amend 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

(3) To vary 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.

(4) The in principle devolution to Lewes Town Council of Mountfield Road Pleasure Ground and and Stanley Turner Recreation Ground, subject to:

- i) exploring with the Charity Commission the substitution of Lewes Town Council as sole charitable trustee in place of Lewes District Council
- ii) consideration of the future management arrangements of the car park at Mountfield Road.
- iii) officers reporting back to Cabinet for final agreement on final terms of devolution.

(5) To devolve Hollycroft Field to East Chiltington Parish

Council on the basis that the whole of the site including grass verges will be transferred, subject to due diligence and associated matters on the part of the Parish Council and agreement on the future maintenance of the site

Reasons for recommendations: To further progress the devolution of open spaces to Town and Parish Councils

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1 Introduction

1.1 Devolution Committee has the remit to consider devolution of open spaces and provide recommendations to Cabinet. In 2015, Devolution Committee recommended to Cabinet a list of open spaces that could potentially be devolved to Town and Parish Councils.

1.2 Devolution Committee last met on 14th January to discuss progress and in particular devolution matters in relation to Newhaven Town Council, Lewes Town Council and East Chiltington Parish Council. The Committee made a number of recommendations that it wished to be considered by Cabinet in order that the Council can further the devolution agenda. This report provides an update on progress and outlines Devolution Committee recommendations.

2 Proposal

2.1 Devolution to Newhaven Town Council (NTC)

Five sites are contained within the initial wave of transfers being progressed; these are:-

- a) East Side Recreation Ground
- b) Avis Road Recreation Ground;
- c) Drove Park Recreation Ground;
- d) Lewes Road Recreation Ground;
- 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).

Transfers at East Side Recreation Ground and Valley Road Play Area should be

in a position to be progressed imminently and a verbal update on the state of play will be made at the Cabinet meeting.

Lewes Road Recreation Ground is being dealt with in conjunction with Riverside Country Park and this report deals with that site below.

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.

Riverside Country Park and Lewes Road Recreation Ground

Riverside Country Park covers approximately 18 hectares of open space. The majority of the site is owned by ESCC but around one third is within the freehold of 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 the north-east corner of Lewes Road Recreation Ground. Riverside is now a Site of Nature Conservation Interest which NTC manage, although no official management agreement appears to have ever been put in place.

ESCC currently monitors 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 to quantify the main risks:

- Leachate (liquid draining from the landfill) which is migrating down the site. Modelling suggests that this could continue for the foreseeable future;
- 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.

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 an agreement (management agreement/lease) for 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. It is proposed that a similar arrangement be put in place on the LDC owned land that mirrors these arrangements. ESCC has confirmed that it cannot take liabilities on for the site as a whole therefore LDC would need to retain liability for its portion of the site, which in reality would be no different to the current situation.

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 agreement for Riverside.

Cabinet is asked to agree:

- 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;
- 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 below.

The template transfer document the Council uses for devolution includes provision for overage in the event that planning permission is granted for certain types of development. NTC has said that it may wish to construct a building in the style of the Linklater Pavilion at Lewes Road Recreation Ground. In order that LDC can ensure that it fulfils its statutory duties in relation to obtaining best value the Council 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. The Council will also need include provision to ensure that the primary use of the site is open space/recreation ground.

Cabinet is asked to agree:

- variation of the standard form of overage provision to allow a specific development at Lewes Road Recreation Ground, commensurate with the use of the site.

2.2 **Devolution to Lewes Town Council (LTC)**

LDC has proposed to LTC that some of the sites from the 2015 devolution list of open spaces are suitable for negotiation and early devolution including Timberyard Play Area, The Paddock Play area (including WCs) and Bell Lane. However, LTC has declined to proceed with the transfer of these sites.

LDC is the sole charitable trustee of Mountfield Pleasure Ground Trust and Stanley Turner Recreation Ground. LTC has asked the Council 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 and that it may be interested to assume the Trusteeship of the Stanley Turner Trust in a future tranche of devolution.

The car park at Mountfield Road is an integral part of the Council's parking strategy and the future operational arrangements of the car park will need to be considered as part of the consideration of transfer of the trusteeship.

Cabinet is asked to agree:

- The in principle devolution to Lewes Town Council of Mountfield Pleasure Ground and Stanley Turner Recreation Ground, subject to:
 - i) exploring with the Charity Commission the substitution of Lewes Town Council as sole charitable trustee in place of Lewes District Council
 - ii) consideration of the future management arrangements of the car park at Mountfield Road.
 - iii) officers reporting back to Cabinet for final agreement on final terms of devolution.

2.3

East Chiltington Parish Council (ECPC)

ECPC has confirmed that it wishes to proceed with devolution of land at Hollycroft Field.

Cabinet is asked to agree:

- devolution of Hollycroft Field on the basis that the whole of the site including grass verges will be transferred, subject to due diligence and associated matters on the part of ECPC and agreement on the future maintenance of the site.

3 Consultation

- 3.1 Devolution Committee considered these matters at its meeting on 14th January 2019 and agreed to recommend them to Cabinet for consideration.

4 Corporate plan and council policies

- 4.1 Thriving Communities: supporting the Council's aim to help local communities become stronger and more resilient
- 4.2 Quality Environment: working with Town and Parish Councils to protect green spaces for the future.

5 Financial appraisal

When an asset is devolved, the cost of ownership passes from LDC to the local Town or Parish Council and its value will be removed from the Balance Sheet. 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 2020, which is still anticipated, and the same contractor is retained, then the District Council would still pay for these sites and it would not be deemed necessary to transfer funds mid-year. If the NTC were to

implement different arrangements, then the District Council would need to reimburse NTC pro rata.

Special expenses details for 2019/20 have been finalised. The transfer of Landport Bottom to Lewes Town Council will reduce the charge for special expenses in Lewes in 2020/21. The charge was £5,650 in 2018/19 .

Maintenance liabilities for Riverside Park are to be agreed between ESCC, LDC and NTC. If NTC takes on day to day responsibilities then the site will be treated as part of their precept rather than being subject to special expenses. As NTC have already set their precept for 2019/20 this would not be an issue until 2020/21.

6 Legal implications

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

[3675-LDC-KS 22 February 2019]

7 Risk management implications

There are no additional risks to the Council as a result of the recommendations of this report.

8 Equality analysis

An equality analysis has been undertaken and has not identified any equality impacts.

9 Appendices

None

10 Background papers

The background papers used in compiling this report were as follows:

- Devolution Committee 14 January 2019: Minute extract