

Agenda Item No: 9.6 **Report No:** 56/16
Report Title: Devolution of Open Spaces to Town and Parish Councils
Report To: Cabinet **Date:** 21 March 2016
Cabinet Member: Cllr Bill Giles
Ward(s) Affected: Newhaven Valley, Newhaven Denton & Meeching, Barcombe & Hamsey, Lewes Bridge
Report By: Gillian Marston, Director of Service Delivery
Contact Officer(s)-
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Purpose of Report:

To seek approval for the transfer of a number of open space assets to Newhaven Town Council and Hamsey Parish Council

Officers Recommendation(s):

- 1** That Cabinet authorises the Director of Service Delivery to transfer land to Newhaven Town Council and Hamsey Parish Council as detailed within this report, subject to the limitation set out below.
 - 2** The Director shall not transfer a site if there are any unwithdrawn objections relating to that site arising out of the of advertisement process carried out under section 123 of the Local Government Act 1972.
 - 3** To note the current position relating to the transfer of Malling Recreation Ground to Lewes Town Council (LTC) and to approve the recommendation to retain the grant payable to LTC in lieu of the Special Expenses charge for 2016-2017 until such time that agreement may be reached.
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Reasons for Recommendations

- 1** At the meeting on 2 February 2016, Devolution Committee agreed to recommend to Cabinet that the sites detailed within this report be transferred to Newhaven Town Council and Hamsey Parish Council.

Information

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Newhaven Town Council and Hamsey Parish Council

- 2.1** 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.
- 2.2** When a Town or Parish Council takes on a devolved asset, it will include the running and administrative costs within its own precept (budget). This means that the cost is included in the local town or parish council tax. Because Lewes District Council no longer owns the asset, it incurs no cost of ownership and the Special Expenses charge will end.
- 2.3** To enable the land transfers, there is a considerable amount of background work involving Legal Services, Property, Finance, and Parks which must take place prior to the finalising of agreements between the parties.
- 2.4** All assets will transfer at nil consideration on an existing use valuation subject to an overage clause. "Overage" allows a seller to share in certain increases in the value of the property after it has been sold. The overage obligation here will require the town or parish council to make a payment to the District Council, representing a share of the increased value of the property, in the event that planning permission is granted for development other than the existing use. An example of the latter would be development of the land for housing. Public sector bodies are required to sell at the best consideration that can reasonably be obtained and overage provisions can be included for this purpose. The overage formula to be used is:
- (A-B) x 50% = C where
A = Enhanced Value; and
B = Base Value (i.e. open space value).
C = Overage Payment, except that were C is a negative sum, C shall be nil.
- 2.5** Negotiations with Newhaven Town Council (NTC) are progressing and it is proposed that the following sites are transferred to NTC as soon as possible with a target completion date of April 2016:
- (a)** Eastside Rec & Allotments
 - (b)** Riverside Park (see para 2.7 below), including Lewes Road Recreation Ground.
 - (c)** Valley Road Play Area
 - (d)** Avis Road Rec

- (e)** Drove Park
- (f)** Denton Rec/Cricket Club
- 2.6** Additionally, it is proposed to transfer the play area known as the Malthouse, Cooksbridge, to Hamsey Parish Council as soon as possible with a target completion date of 1st April 2016.
- 2.7** The northern part of the land at Riverside Park is known to be a former municipal waste site and therefore additional due diligence is required. However, NTC is keen to make progress and it would be possible to transfer the southern part of the site known as Lewes Rd Rec which was not part of the waste site prior to the transfer of the northern part of the site. On this basis, Cabinet is asked to approve the transfer of Lewes Rd Rec to NTC as soon as possible with a target completion date of 1st April 2016, with the northern half of the site known as Riverside Park to be transferred at the earliest opportunity thereafter.
- 2.8** Each party to the transfer will undertake its own diligence to ensure that all facts are established and understood prior to concluding the transaction.
- 2.9** The sites proposed for transfer are public open space and must be advertised as a disposal under Section 123 of the Local Government Act 1972 before any final decision is taken on the disposal, so that proper consideration is given to any objections received. The public advertisement process will not end until after the date of the Cabinet meeting. It is therefore recommended that Cabinet authorises the Director to transfer the sites subject to there being no unresolved objections.

Lewes Town Council

- 2.10** It has not been possible to reach agreement with Lewes Town Council with regard to the transfer of the recreation ground at Malling Brooks. The main area of contention relates to overage. Both Devolution Committee and Cabinet have been clear that all assets are to transfer with overage provision.
- 2.11** Both Councils were anticipating transfer of Malling Rec and Landport Bottom prior to the start of the 2016-2017 financial year and as a result, no provision for Special Expenses has been made. It is therefore recommended that LDC retain the grant payable to LTC (£53,000) for the 2016-2017 financial year in lieu of Special Expenses. However, should it be possible to agree a transfer, the grant is to be paid to LTC pro-rata.
- 2.12** If it is not possible to reach agreement with LTC in 2016-2017, it is recommended that Special Expenses will recommence in 2017-2018.

Financial Appraisal

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- 3.1** When an asset is devolved, the cost of ownership passes from this Council to the local Town or Parish Council.
- 3.2** The following financial information is summarised below:
- (a)** A statement of the revenue/capital financial impact of the transfer;
- (b)** A list of any associated reserves/balances that could be considered for transfer, including Developer contributions (s106 deposits) that are held;
- (c)** A statement of the asset values (existing use) being transferred.

Location	Financial Impact of transfer	Reserves /Balances	Asset Value (Existing Use)
Eastside Rec & Allotments	(1) £19,390.13 (2) £780 (4) £290	n/a	£75,000
Riverside Park	(1) £247.81	n/a	£225,000
Valley Road Play Area	(1) £2,477.78 (2) £780	n/a	£10,000
Avis Road Rec	(1) £4,844.76 (2) £780	n/a	£20,000
Drove Park	(1) £908.15 (3) £4,147.20	n/a	£30,000
Denton Rec/Cricket Club	(1) £4,377.84 (4) £150	n/a	£30,000
The Malthouse	(1) 102.12 (2) £780	n/a	£10,000

(1) Grounds maintenance contract costs transferring to Parish Council

(2) Play area inspection costs transferring to Parish Council

(3) Ranger costs transferring to Parish Council

(4) Income from lease(s) transferring to Parish Council

- 3.3** The cost of maintaining the sites has been removed from the Council's budget for 2016/17 on the assumption that these sites will be devolved at the beginning of the year.

Legal Implications

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4.1 The legal implications are contained within the body of this report.

Risk Management Implications

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5.1 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.

Equality Screening

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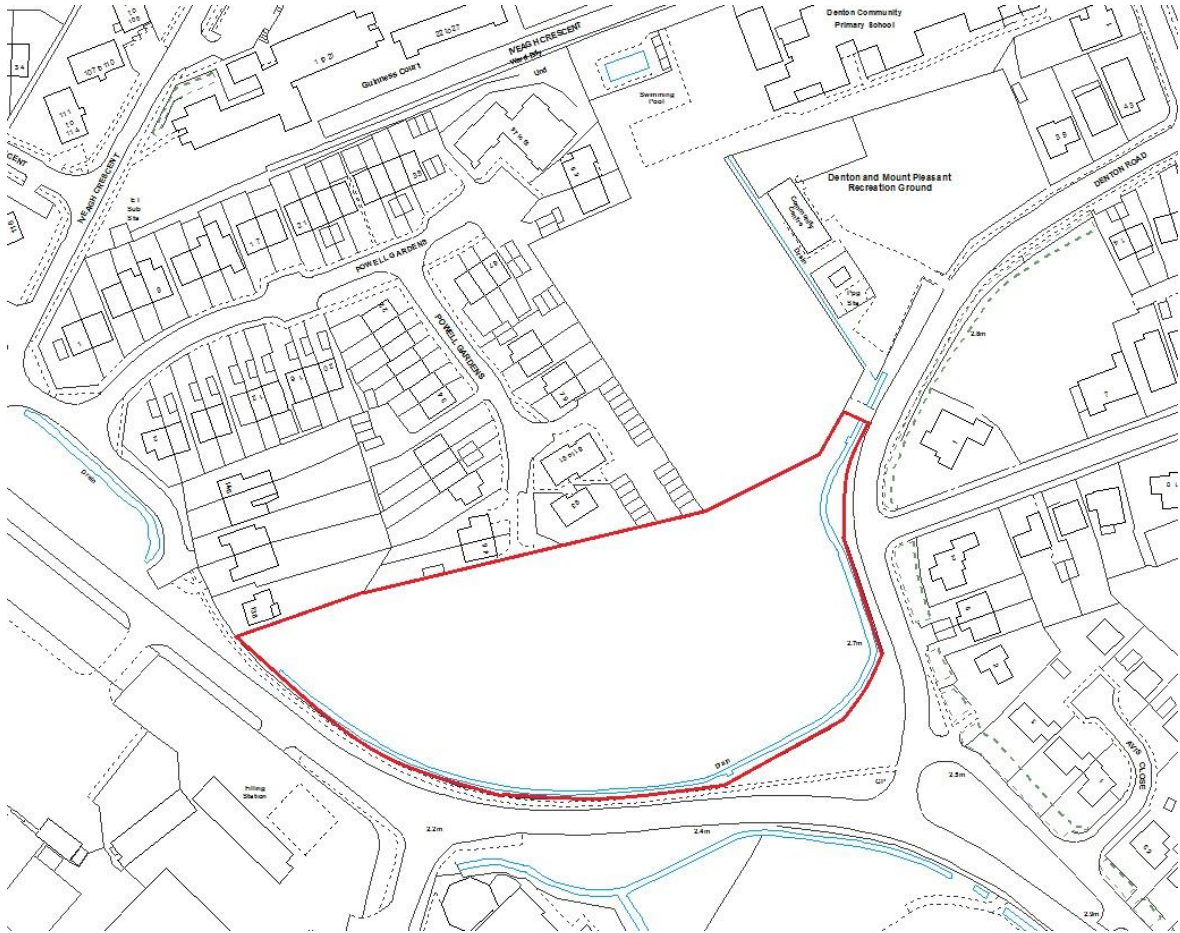
6.1 I have carried out an Equality Impact Assessment. There are no equality implications as a result of this report as the land will be transferred on an existing use basis and the report relates to a change of ownership only.



Background Papers

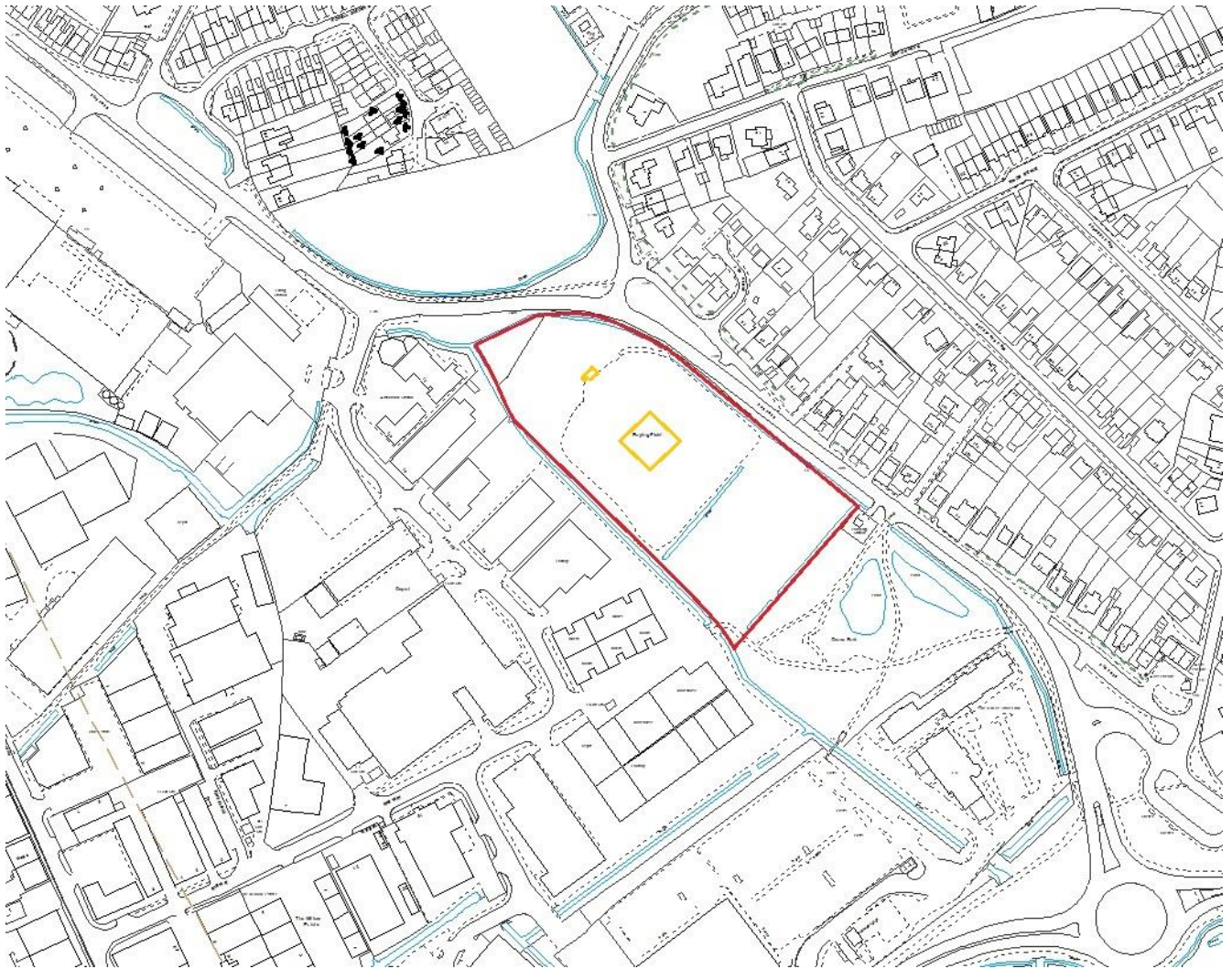
7 None



Appendices

8 Appendix A: Plans of the sites to be transferred.





 Lewes District Council www.lewes.gov.uk Property, Contracts & Facilities	Avis Rd Rec, Newhaven			N 
	545211/102173	DP 429	SCALE: 1:1250	PLAN NO. E07/16
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 Lewes District Council www.lewes.gov.uk	Denton Rec, Newhaven			N 
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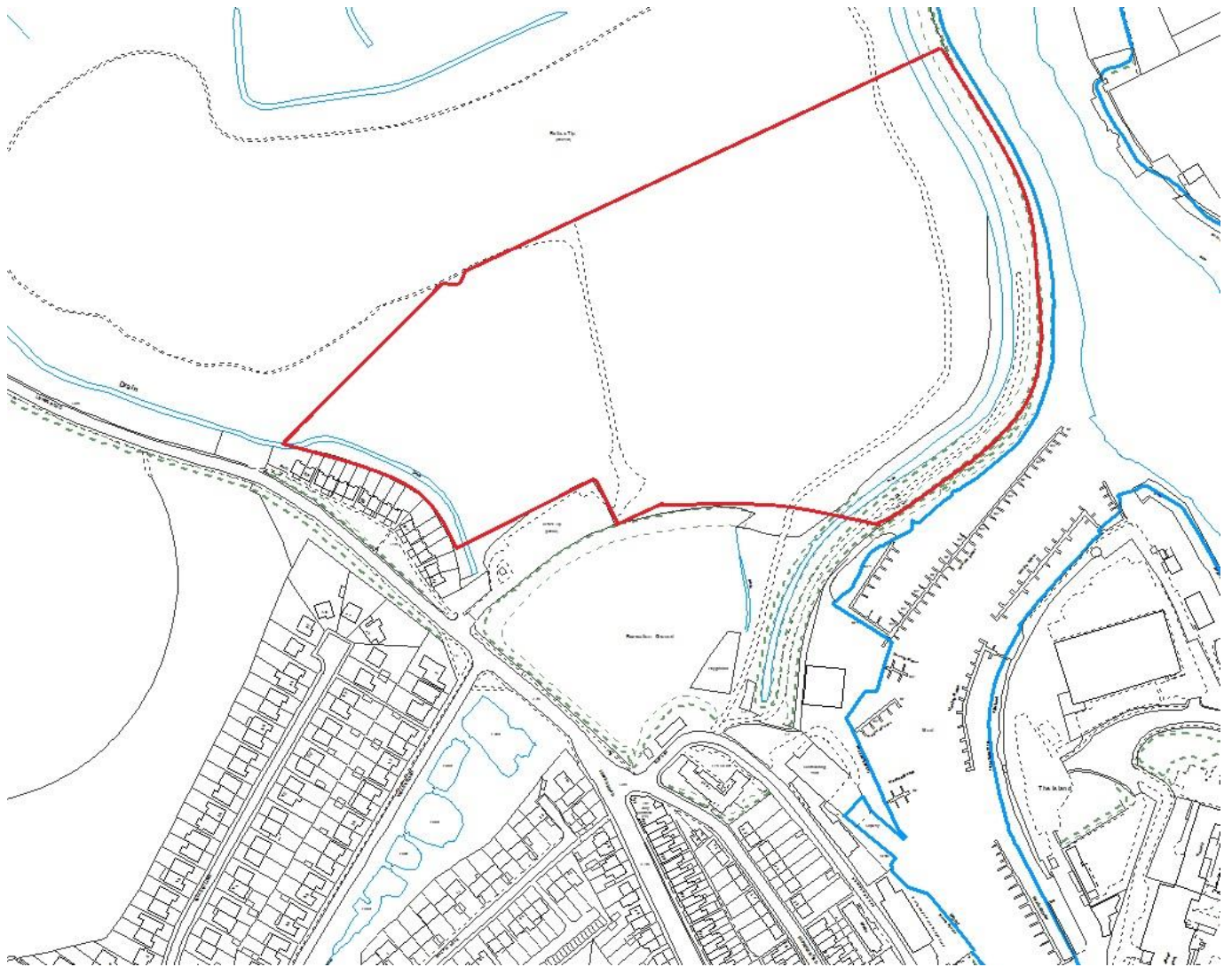
 Lewes District Council www.lewes.gov.uk Property, Contracts & Facilities	Drove Park, Newhaven		N 
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 Lewes District Council www.lewes.gov.uk Property, Contracts & Facilities	Eastside Recreation Ground & Allotments, Newhaven			N 
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 Lewes District Council www.lewes.gov.uk Property, Contracts & Facilities	Valley Road Parkour Play Area, Newhaven		N 
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 Lewes District Council www.lewes.gov.uk Property, Contracts & Facilities	Riverside Park, Newhaven			N 
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