

Devolution Committee 7 June 2018



Time and venue

2.00 pm in the Telscombe Room - Southover House, Lewes

Membership:

Councillors Stephen Catlin (Chair); Councillors Graham Amy, Liz Boorman, Jackie Harrison-Hicks, Vic Ient, Tony Nicholson and Sarah Osborne

Quorum: 4

Published: Wednesday, 30 May 2018

Agenda

1 To approve the Minutes of the meeting held on 15 June 2016 (copy previously circulated - attached herewith for information) (Pages 1 - 4)

2 Apologies for Absence/Declaration of Substitute Members

3 Declarations of Interest

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

4 Urgent Items

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.

5 Written Questions

To deal with written questions from councillors pursuant to Council Procedure Rule 11.3 (page D8 of the Constitution).

6 Devolution of Open Spaces to Town and Parish Councils (Pages 5 - 10)

To consider the Report of the Head of Property & Facilities.

7 Date of Next Meeting

To note that the next meeting of the Devolution Committee will be called as necessary.

Information for the public

Accessibility: Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

Filming/Recording: This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

Public participation: Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

Information for councillors

Disclosure of interests: Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Councillor right of address: A member of the Council may ask the Leader, a Cabinet Member or the Chair of a committee or sub-committee any question without notice upon an item of the report of the Cabinet or a committee or subcommittee when that item is being received or under consideration by the Council.

A member of the Council may ask the Chair of a committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or subcommittee.

A member must give notice of the question to the Head of Democratic Services in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

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Devolution Committee

Minutes of a meeting of the **Devolution Committee** held in the **Ditchling Room, Southover House, Southover Road, Lewes** on **Wednesday 15 June 2016** at 10.00am.

Present:

Councillors T Nicholson (Chair), G Amy, J Carter, P Gander, B Giles and J Harrison-Hicks

Also Present:

Z Downton, Committee Officer
B Lewis, Head of Property and Facilities

In Attendance:

J Norman, Committee Officer

1 Minutes

The Minutes of the meeting held on 2 February 2016 were approved as a correct record and signed by the Chair.

2 Devolution Update

The Committee considered Report No 75/16 which provided an update as to the state of progress on devolution of land to town and parish councils and to seek the Committee's endorsement of the approach being taken by officers towards overage. In the context of land sales, overage was used to describe a sum of money in addition to the original sale price which a seller of land might be entitled to receive in accordance with the agreed overage provisions set out within a contract of sale of land.

The Head of Property and Facilities explained that overage was a necessary mechanism to ensure that the Council achieved best consideration under Section 123 of the Local Government Act 1972. However, a considerable amount of officer time had been spent progressing devolution projects which had ultimately failed for lack of agreement between the Council and Town and Parish Councils concerned as to the

terms of overage and how it would be applied.

Paragraph 2.3 of the Report detailed that a recommendation had been made to the Council by the District Valuer (DV) specifically in connection with the devolution project as a whole. The recommendation was for the inclusion of overage provisions in the transfers of property and there was no good reason why the Council should not implement the DV's advice.

The Head of Property and Facilities explained that she had attended a meeting with Town and Parish Council clerks on 24 May 2016. The Chief Executive of Sussex and Surrey Association of Local Councils and Councillor Andy Smith, Lewes District Council's Leader had also been in attendance at the meeting. The meeting addressed concerns raised and any remaining confusion regarding the purpose of overage and the way in which it operated. The Head of Property and Facilities explained that central to those concerns expressed was the trigger for overage and the length of time overage applied for after the transfer.

The Head of Property and Facilities brought to the Committee's attention that the Council was clear that overage should only apply when there was an uplift in value, or change of use leading to an uplift in value, of the land. In response to a Councillor's question, the Head of Property and Facilities advised that refurbishments or improvements to existing facilities on land, such as changing rooms, would be excluded from overage. She added that the Council did not want to stifle the potential future use of land and known plans to make such improvements could in theory be included, and therefore protected, in any contract made. The Head of Property and Facilities advised that in any case, improvements or enhancements to current facilities on land such as public open spaces would be unlikely to increase the value of the land itself.

Paragraph 2.9 of the Report stated that the current proposal for transfer set an overage period of 50 years. Towns and Parishes had expressed that that was too long and that they would be seeking to reduce the overage period. A suitable compromise position was put forward at 30 years. The Committee noted that once the 30 year period of overage had expired, there would be no restrictions on transferred land.

The Head of Property and Facilities highlighted, under paragraph 2.11 of the Report, that Town and Parish Councils had raised concerns that the Council, by including a restrictive covenant in the Deed of Transfer relating to the repair and maintenance of the assets, was placing unreasonable obligations on the Towns and Parishes. She explained that after consideration, officers believed that it was a point that could be conceded, thus removing a further obstacle to the transfer of land and making the terms of overage explicit.

The Head of Property and Facilities clarified that the newly proposed timescale of six months for completion of transactions would need to be put forward and agreed as appropriate with individual Town or Parish Councils where discussions with the Council to transfer land had already

commenced, as with Lewes Town Council and Newhaven Town Council.

In response to a Councillor's question, the Head of Property and Facilities advised that she understood that Special Expenses payments in relation to transferred land would cease at the point of transfer. She would look into that further and advise the Committee if otherwise.

Head of
Property
and
Facilities

The Head of Property and Facilities advised the Committee that the action points from the previous meeting of the Devolution Committee held on 2 February 2016 had not been progressed due to the need for the Council's approach to overage to be clarified as a priority.

The Committee noted that, under officer recommendation 2, as contained within the Report on page 6 of the Agenda, it should have read '...as set out in paragraph 2.12 of the report' and not paragraph 3.5.

Resolved:

- 2.1 That the state of progress on devolution of land to Town and Parish Councils be noted;
- 2.2 That it be noted that the approach being taken by officers towards the overage, as set out in paragraph 2.12 of Report No 75/16 be endorsed;
- 2.3 That it be approved that the overage period be reduced to 30 years; is triggered upon implementation of a planning decision; and that any restrictive covenants relating to maintenance and repair are stripped out of existing draft documents. Additionally overage is to apply only where there is an uplift in value of the transferred land; and
- 2.4 That it be approved that the Head of Property and Facilities write to the Towns and Parishes asking for written confirmation that they are able to agree the principles, as set out in paragraph 2.12 of Report No 75/16, before any transaction commences and further, to set a deadline of six months for the transaction to complete to avoid protracted negotiations.

Head of
Property
and
Facilities

3 Date of Next Meeting

Resolved:

- 3.1 That it be noted that the next meeting of the Devolution Committee be scheduled to be held on Wednesday 5 October 2016 at 10.00am in the Ditchling Room, Southover House, Southover Road, Lewes.

**All to
note**

The meeting ended at 10.35am.

T Nicholson, Chair

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

Report To: Devolution Committee **Date:** 7 June 2018

Committee Chair: Cllr Stephen Catlin

Ward(s) Affected: All

Report By: Bee Lewis, Head of Property & Facilities Shared Service

Contact Officer(s)-

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Purpose of Report:

To update the Committee on progress of Devolution requests from Town and Parish Councils and to confirm the next sites that it is proposed are transferred.

Officers Recommendation(s):

- 1 That the Devolution Committee notes the progress on Devolution and confirms the next sites that it is proposed are transferred.
 - 2 That the Devolution Committee recommends to Cabinet the variation of the standard form of overage provision to allow certain development to take place at Eastside Recreation Ground, Newhaven as outlined at paragraph 2.7 of this report.
 - 3 That the Devolution Committee recommends to Cabinet the devolution of Meeching Down, Newhaven to Newhaven Town Council
-

Reasons for Recommendations

- 1 To note the progress on Devolution and to agree the next steps for further progress.

Information

2

- 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. The Special Expense

charge is an annual addition to the Lewes District council tax to cover the costs that this Council incurs in managing and maintaining parks, open spaces, recreation areas and other 'green' sites which it owns. The amount of the Special Expenses charges varies between town and parish areas and is dependent on the budgeted cost of the sites located in each of these areas. In 2018/2019 Special Expenses are charged to taxpayers in Lewes, Newhaven, Telscombe, Seaford, Peacehaven, Chailey and Ringmer.

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 A template form of transfer agreement is being used for the transfers (with the exception of Eastside Recreation Ground and Landport Bottom as noted at para 2.7 and 2.11 below). 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.

2.5 Devolution to Newhaven Town Council (NTC)

2.6 The first "wave" of transfers currently being progressed are:

- (a)** Eastside Recreation Ground;
- (b)** Avis Road Recreation Ground;
- (c)** Drove Park Recreation Ground; and
- (d)** Valley Road Recreation Ground.

These transfers are actively being dealt with by LDC and NTC solicitors and, subject to resolution of various issues some of which involve third parties (e.g. in relation to access rights), should proceed to completion in approximately the next two months.

2.7 As stated at paragraph 2.4 the template transfer document includes provision for overage in the event that planning permission is granted for certain types of development. NTC propose to replace the changing rooms at Eastside Rec and potentially construct new changing rooms and/or a new crèche/day nursery/cay centre. It has been agreed that this use will not trigger the payment of overage on the basis that it 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. It is also agreed that a maximum of 25% of the ground area of the property can be used as a crèche/day nursery/day centre to make it clear that the primary use is open space/recreation ground.

- 2.8** It was agreed at a Devolution Committee meeting dated 27 January 2015 that certain other sites are suitable for negotiation and this list includes Castle Hill, Newhaven. The minutes of that meeting were agreed by Cabinet on 12 February 2015, which will form the relevant Cabinet authority for the transfer of this site. NTC has decided that it would like Castle Hill and Meeching Down (as discussed at paragraph 2.9 below) to take priority over the remaining sites waiting to be devolved and for work on their transfer to be undertaken next, once the first phase of devolution has been achieved.
- 2.9** It was not originally proposed that Meeching Down Open Space was to be transferred to NTC, however, it is now proposed that the transfer will take place as part of the devolution process. This report requests that Devolution Committee recommends to Cabinet that Meeching Down is devolved to NTC.
- 2.10 Devolution to Lewes Town Council (LTC)**
- 2.11** The transfer of ownership of Landport Bottom to LTC (who currently owns a 50% share) will take place imminently. As LTC are joint owners, it is proposed that the land is transferred without an overage provision. This transfer and the non-inclusion of an overage clause in this case will be subject to Lead Member approval, which is currently being progressed.
- 2.12** It was agreed at a Devolution Committee meeting dated 27 January 2015 that certain other sites are suitable for negotiation and this list includes Timberyard Play Area, The Paddock Play area (including WCs) and Bell Lane. The minutes of that meeting were agreed by Cabinet on 12 February 2015, which will form the relevant Cabinet authority for the transfer of these sites. LDC has proposed that these sites are taken forward for an early devolution and LTC's decision is awaited.
- 2.13 Other devolution projects**
- 2.14** LDC is in early discussions with East Chiltington Parish Council in relation to the potential devolution of Hollycroft, East Chiltington.
- 2.15** Additionally, Peacehaven Town Council have indicated that they would like to commence the devolution process and officers are working on a list of sites to be transferred.

2.16 Generally

- 2.17** Each party to the transfer will undertake its own diligence to ensure that all facts are established and understood prior to concluding the transaction. LDC will pay for “Reports on Title”, which will be shared with the local councils.
- 2.18** 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.

Financial Appraisal

3

- 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 table below indicates the total charged in 2018/2019 as Special Expenses for each of the sites included in the first wave of transfers to NTC. The total charged includes the estimated cost of work carried out by LDC’s Grounds Maintenance contractor and an allocation of other direct costs (eg repairs to fencing and tree works) as well as a share of LDC’s own management and overhead costs. The total amount charged as Special Expenses for these sites equates to a Band D council tax amount of £13.28 for council taxpayers in Newhaven.
- 3.3** It is proposed to pass Special Expenses charges collected in 2018/2019 by LDC from local taxpayers to NTC at the time that the sites are devolved, net of any costs incurred in the year to date, to NTC. Special Expenses charges would no longer apply from 1 April 2019 as the Council would no longer be responsible for the sites. Any costs incurred by NTC after that date would be met from its own local precept.
- 3.4** For completeness of reporting, the table also shows the current Balance Sheet value of each site. It is essential to note that the sites are held as a ‘community asset’ and the valuation is its ‘historic cost’ used for accounting purposes only. This is not the current value of the site in either its existing or any alternative use. When the 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 in the year.

Site	Total charged as Special Expenses 2018/19 £	Balance Sheet value £
Eastside Rec and allotments	32,560	85,000
Avis Road Recreation Ground	7,920	20,000
Drove Park Recreation Ground	1,450	30,000
Valley Road Play Area	4,630	15,500
Total	45,560	150,000

Legal Implications

4

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

Risk Management Implications

5

- 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

6

- 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 None

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