

**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

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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
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### **Reasons for Recommendations**

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

### **Information**

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- 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**

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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 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
<b>Total</b>	<b>45,560</b>	<b>150,000</b>

## Legal Implications

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- 4.1 There are no additional legal implications arising as a result 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

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## Appendices

8 None