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# Transferring the freehold of children's playgrounds and associated public space to Thatcham Town Council

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<b>Committee considering report:</b>	Executive
<b>Date of Committee:</b>	21 December 2017
<b>Portfolio Member:</b>	Councillor Dominic Boeck
<b>Date Portfolio Member agreed report:</b>	24 October 2017
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<b>Forward Plan Ref:</b>	EX3384

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## 1. Purpose of the Report

- 1.1 To consider Thatcham Town Council's (TTC) devolution proposal for the freehold transfer, and all future maintenance, of the open space and associated playgrounds at; Crowfield Drive, Dunstan Park, and Kennet Heath.
- 1.2 The locations of the open space are shown at Appendix 1.
- 1.3 If the proposal goes ahead West Berkshire Council Transport and Countryside Service could realise a saving of approximately £4,500 on routine annual maintenance, approximately £9,000 on one off repairs and maintenance of play areas, as well as all future capital expenditure on equipment end of life replacement costs. It should be noted that the saving on routine annual maintenance is calculated such that it takes into account the sum drawn down from the developer contribution. As this reduces over time the saving will effectively be greater in future years up to the full maintenance amount set out in Appendix 2. The timing of any savings will be dependent on when the assets transfer.

## 2. Recommendation

- 2.1 That the Executive approve the freehold transfer of the assets to Thatcham Town Council subject to appropriate heads of terms being agreed.
- 2.2 Subject to TTC agreeing the proposed freehold transfer of the three playgrounds, officers liaise with the new grounds maintenance contractor regarding the removal of the above assets from the grounds maintenance contract, and also enter into discussions with TTC as to the heads of terms for the transfers.

## 3. Implications

- 3.1 **Financial:** The actual costs of maintaining these playgrounds and open spaces are as follows: Annual maintenance approximately £17,000. These costs are however offset by commuted sum maintenance contributions received from the developer. One off maintenance costs of playground equipment approximately £9,000. Note these latter costs

may be more, or less each year depending on the outcome of the quarterly Royal Society for the Prevention of Accidents (RoSPA) reports. The Council will also save on future capital replacement costs. The Council will have to transfer with the assets any commuted sum maintenance contributions received from the developer.

- 3.2 **Policy:** The proposal supports the Council's new policy Devolution in West Berkshire  
<http://info.westberks.gov.uk/index.aspx?articleid=34205>
- 3.3 **Personnel:** There are no staffing implications.
- 3.4 **Legal:** Thatcham Town Council has requested the freehold transfer of the three playgrounds. The freehold transfer will need to be subject to appropriate heads of terms. Subject to the freehold transfer proceeding, Officers will liaise with the new grounds maintenance contractor with a view to removing the three playgrounds listed above.
- 3.5 **Risk Management:** There will be a reduced liability for any accidents or incidents related to the use of equipment. In practice however most risks relating to these playgrounds are considered by RoSPA to be low.  
  
The removal of the three playgrounds from the new Grounds Maintenance Contract may have a financial impact on the Council.
- 3.6 **Property:** The assets are shown at Appendix 1 and are wholly under the management of West Berkshire Council.
- 3.7 **Other:** None.
- 4. Other options considered**
- 4.1 None.

## Executive Summary

### 5. Introduction / Background

- 5.1 Thatcham Town Council (TTC) submitted an Asset Transfer Proposal through the Devolution Portal at the end of June. This requested the freehold transfer, from this Council to TTC, of the open space and associated playgrounds at; Crowfield Drive, Dunstan Park, and Kennet Heath.
- 5.2 TTC already maintain a number of large open spaces and other playgrounds under their own contract arrangements and they view this proposal as a means to amalgamate all Thatcham assets under the ownership of one authority. They have requested a freehold transfer. In response to a question as to why a freehold transfer is requested they responded as follows:

*“The Town Council does not think that Thatcham tax payers should fund the provision of assets that the Town Council doesn’t own”.*

- 5.3 The locations of these playgrounds are shown on the map attached as Appendix 1.
- 5.4 Responsibility for managing and maintaining children’s play areas is a significant undertaking. This Council has a legal and moral responsibility to ensure children’s play areas under our control are in as safe a condition as reasonably practicable. In addition play provision also has to meet the requirements of the Disability Discrimination Act 1995 and other directives such as the Disability Equality Duty 2006. This requires significant management time and financial investment over time.
- 5.5 As budget pressures become more acute this responsibility becomes more difficult to fulfil. According to the Association of Play Industries (API) between 2014/15 and 2015/16 local councils in England closed 214 children’s playgrounds.
- 5.6 Current annual maintenance costs are set out in more detail at Appendix 2. However in summary annual costs are as follows;
- (i) Routine Annual Maintenance Costs. Total Costs are approximately £17,000. These costs are however partially offset by commuted sum maintenance contributions which bring to true costs to the local taxpayer down to approximately £4,500. Note however that the commuted sum contribution expires over time and the saving will be greater in future years.
  - (ii) One off Repairs and Maintenance. Total Costs are approximately £9,000. Note however this figure can go up or down each year depending on the findings of the quarterly Royal Society for the Prevention of Accidents (RoSPA) inspections.
- 5.7 Current CIL arrangements have an implication for the future maintenance of playgrounds. There will be less capital funding available to the Transport and Countryside Service in order to manage these assets as they near end of life, or when equipment needs to be replaced. As local council’s have a greater CIL allocation, then the likelihood is that this Council would have to approach the local

council for a contribution towards the cost of replacement equipment. Transferring these assets would ensure that they are being managed at the appropriate level of government. It should be noted that some of these play areas are already 20 – 25 years old.

## **6. Opportunity**

- 6.1 This proposal offers an opportunity for West Berkshire Council to support the devolution agenda and place local playground and open space assets at the appropriate level of government to ensure that they are maintained appropriately and continue to meet the requirements of the local community into the future.
- 6.2 TTC will have greater access to the necessary funding required, specifically capital funding to ensure these play assets remain available to the public.

## **7. Considerations**

- 7.1 A new grounds maintenance contract is due to commence later in 2018. Removing these assets will reduce the overall value of the contract to the incoming contractor. Although in this case the overall amount is not significant the Council is obliged to discuss with the contractor the possible implications of the devolution process over time. It is entirely possible that if large areas of land and other assets are transferred out of WBC ownership then there will be a more significant impact on this contract with an increased likelihood of a challenge from the contractor and a possible financial penalty. It is appropriate that early discussions with the contractor take place to reduce this likelihood.
- 7.2 Asset Strategy Group discussed this report on the 24<sup>th</sup> October. They raised a concern about transferring the land on a freehold basis, the issue being that the sites proposed for transfer have the potential to be proposed for development purposes in the future and as such have an open market value. In response to this however property and legal colleagues have confirmed that it is usual for a financial clause to be inserted in the agreement should the land transferred be disposed of for financial gain for a purpose other than open space and children's play.

## **8. Conclusion**

- (1) This proposal supports West Berkshire Council's commitment to helping devolution happen by supporting locally-led service delivery.
- (2) TTC are better placed and have the necessary experience to continue to manage these assets into the future.
- (3) There is a financial saving to be had from transferring these assets to TTC.
- (4) There is some risk that as devolution progresses WBC could become liable to a financial challenge from the grounds maintenance contractor as we will have reduced the value of the contract over time. This requires careful handling directly with the contractor.
- (5) The Council needs to determine the most appropriate means of transfer, either freehold or leasehold.

## 9. Appendices

- 9.1 Appendix 1 – Map of locations
- 9.2 Appendix 2 – Maintenance costs detail
- 9.3 Appendix 3 – Equality Impact Assessment