
Devolution of Playgrounds to Thatcham Town Council

Committee considering report:	Executive on 20 December 2018
Portfolio Member:	Councillor Jeanette Clifford
Date Portfolio Member agreed report:	6 December 2018
Report Author:	Paul Hendry, Countryside Manager
Forward Plan Ref:	EX3649

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 Pound Lane and Mount Road, Thatcham.
- 1.2 The locations of the open space are shown at Appendix 1.
- 1.3 The current sites are under the management of TTC by virtue of a lease dated 28 April 2003. The lease period is for 99 years. This report seeks approval to transfer the playgrounds and associated open space as a freehold from this Council to TTC.

2. Recommendation

- 2.1 That Corporate Board agree that officers can enter into discussions with TTC as to the heads of terms for the freehold transfer.

3. Implications

- 3.1 **Financial:** There are no financial implications. All costs relating to the management of these sites, both revenue and capital, currently sits with the Town Council.
- 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:** This disposal complies with the European Commission's State aid rules. As the land is open space the potential disposal of the land is consequently being advertised in accordance with legislation. If objections to the disposal are received the objections will have to be considered. Based on the merits of these a decision will have to be made as to whether to proceed with the freehold disposal.

3.5 **Risk Management:** There are no implications.

3.6 **Property:** The assets are shown at Appendix 1.

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 2017. This requested the freehold transfer, from this Council to TTC, of a number of playgrounds. The freehold of 3 playgrounds at Crowfield Drive, Dunstan Park and Kennet Heath are currently in the process of being transferred. TTC meanwhile made a further request for the freehold transfer of the Pound Lane and Mount Road facilities.
- 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.
- 5.3 The playgrounds and open spaces subject of this report are already managed by TTC under a lease for 99 years dated 23 April 2003. What officers are seeking is approval to transfer the freehold to TTC as requested.
- 5.4 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. In response to concerns raised by officers as to why a freehold transfer is now being requested TTC 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”.

- 5.5 TTC have expressed an interest in other playgrounds and open spaces being devolved to them and as above would seek to have them transferred by freehold rather than leasehold. This request addresses a future anomaly whereby some assets are leased whilst others have been/are being, transferred by leasehold.
- 5.6 The locations of these playgrounds are shown on the map attached as Appendix 1.

6. Opportunity

- 6.1 This proposal offers an opportunity for West Berkshire Council to support the devolution agenda and permanently place local playgrounds 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 The Council has the power to dispose of the land pursuant to s123 of The Local Government Act 1972 subject to it being at the best consideration that can reasonably be obtained. The Freehold transfer to TTC is a disposal for the purposes of s123 Local Government Act 1972

- 7.2 All disposals must comply with the European Commission's State aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State aid rules, failure to comply means that the aid is unlawful. State Aid does not apply in this instance because this is a transaction between statutory bodies where there is no distortion of the market or competition.
- 7.3 Heads of terms and the transfer deed will include appropriate provisions restricting the site for the purposes of open space recreation and play. This means that the restrictions imposed on the sites will continue to bind the land forever.
- 7.4 Should TTC want to install additional facilities and buildings on the site they will need to obtain the consent of West Berkshire Council first, who may or may not consent, although the deed will include a clause to confirm that they will not unreasonably withhold their consent provided that the additional facilities do not go against aims of providing and promoting open spaces.
- 7.5 As the land is open space the disposal is being advertised locally under provisions set out in the Local Government Act. If objections to the disposal are received these will have to be considered. Based on the merits of any objections received a decision will then have to be made as to whether to proceed with the freehold disposal.

8. Conclusion

- (1) This proposal supports West Berkshire Council's commitment to helping devolution happen by supporting locally-led service delivery.
- (2) Playground assets are placed at the appropriate level of government to ensure that they are maintained appropriately.
- (3) TTC are better placed and have the necessary experience to continue to manage these assets into the future.

9. Appendices

- 9.1 Appendix 1 – Map of locations
- 9.2 Appendix 2 – Equality Impact Assessment