
Devolution of Hermitage Green

Committee considering report:	Executive on 29 April 2021
Portfolio Member:	Councillor Richard Somner
Date Portfolio Member agreed report:	1 April 2021
Report Author:	Paul Hendry
Forward Plan Ref:	EX4006

1 Purpose of the Report

- 1.1 To consider Hermitage Parish Council's (HPC) request for the leasehold transfer, and all future maintenance responsibility, of Hermitage Green open space including the playground.

2 Recommendation

- 2.1 It is recommended that the land is transferred to Hermitage Parish Council (HPC) on a long lease of at least 75 years.

3 Implications and Impact Assessment

Implication	Commentary
Financial:	There will be a future saving to West Berkshire Council as HPC will take on all future maintenance of the site both in terms of revenue and capital. There is a commuted sum balance to be transferred to HPC with the land.
Human Resource:	None
Legal:	<p>Heads of Terms have been agreed in principle between both parties. The disposal of Hermitage Green has been advertised in accordance section 123 of the Local Government Act 1972.</p> <p>The usual covenants preventing disposal or development form part of the heads of terms and will also be included in the lease.</p> <p>Discussions will have to take place with the grounds maintenance contractor as this land, alongside other devolved assets, will be removed from the Grounds Maintenance</p>

	Contract. Depending on the potential cumulative ongoing saving, there may be implications in terms of the Contract as its overall value to the contractor is diminished.			
Risk Management:	There is a minimal reduction in risk to West Berkshire Council as HPC become responsible for the open space and playground. All liabilities for the land pass to the Parish.			
Property:	Property colleagues have confirmed that as an open space open space this site has no real value.			
Policy:	This proposal supports the council's commitment to locally-led service delivery.			
	Positive	Neutral	Negative	Commentary
Equalities Impact:				
A Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?		✓		The parish may need to take their own advice on equalities provision when the playground has to be upgraded. This advice is however available from suppliers. HPC will know their local community requirements better than WBC.
B Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?		✓		As above there may be some positive outcomes in this respect.
Environmental Impact:		✓		No negative environmental impacts.
Health Impact:	✓			Children's play has undoubted mental and physical health benefits.

ICT Impact:		✓		None
Digital Services Impact:		✓		None
Council Strategy Priorities:	✓			Ensures sustainable play and open space provision through innovation and partnerships
Core Business:	✓			As above this proposal ensures sustainable play and open space provision through innovation and partnerships. Play provision is core business within Environment.
Data Impact:		✓		None
Consultation and Engagement:	Hermitage Parish Council, Devolution Working Group, which includes Legal and Property Service representatives.			

4 Executive Summary

- 4.1 Hermitage Parish Council (HPC) submitted an Asset Transfer Proposal through the Devolution Portal earlier this year. HPC, at its meeting on 19th March 2020, agreed to adopt the open space and playground on a 75 year lease with the remaining commuted sum currently allocated to it. HPC will thereafter undertake and fund all maintenance costs and capital investment in the open space and playground from the point of transfer.
- 4.2 The open space at Hermitage Green comprises a grassed area of approximately 2200 square metres with trees, shrubs and a children's play area which is in good condition.
- 4.3 Routine annual maintenance costs for Hermitage Green are approximately £1600. One off repairs and maintenance costs are approximately £500/annum. Note that there is a planned capital cost of £8000 required to deal with safety surface defects prior to transfer.
- 4.4 The routine annual maintenance of Hermitage Green is at least partly covered by a sum which the Countryside Service received from the developer at the time of adoption. Currently there is a sum of £11359 available for ongoing maintenance. The remaining recalculated commuted sum will be transferred to HPC as part of the transfer agreement.
- 4.5 The council is contractually obliged to notify the current grounds maintenance contractor, Continental Landscapes Ltd, of this variation to the Contract. The possible

implications of the devolution process and this specific transfer on the current Contract will have to be discussed with CLL. Any reduction in the Contract value will have to be agreed by both parties.

- 4.6 This land can be devolved to the Parish on a long lease on terms to be determined in line with other lease arrangements. Future use of the land as a recreational open space, protected from development, can be ensured by a simple clause inserted in the lease which restricts its use for purposes other than open space and children's play.
- 4.7 This proposal offers an opportunity for West Berkshire Council to support the devolution agenda and place this open space and playground asset 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.
- 4.8 Hermitage Parish Council will have greater access to the necessary CIL funding required, specifically capital funding, to ensure these play assets remain available to the public. HPC are best placed to manage Hermitage Green in perpetuity.

5 Supporting Information

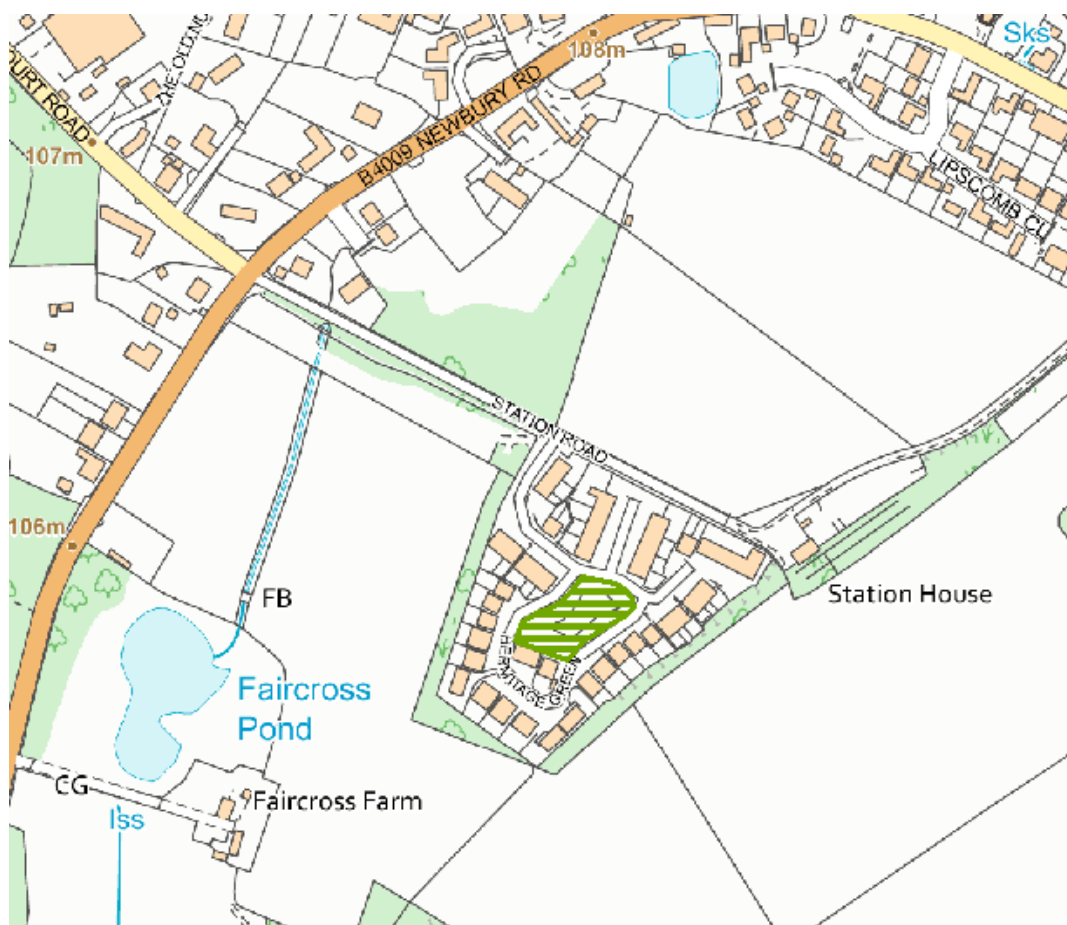
Introduction

- 5.1 Hermitage Parish Council (HPC) submitted an Asset Transfer Proposal through the Devolution Portal earlier in 2020. This requested the freehold transfer of the open space and playground to HPC. This request was declined but as an alternative option, the land was offered on a long lease with specific clauses in order to protect the land from future development.
- 5.2 Hermitage Parish Council agreed, at its meeting on 19th March 2020 to adopt Hermitage Green open space on a 75 year lease. In return HPC requested any remaining commuted sum funding relating to its maintenance.
- 5.3 Some capital expenditure is required to bring the play area safety surface up to current standards and therefore this will be carried out prior to transfer. HPC will be provided with the most up to date RoSPA (Royal Society for the Prevention of Accidents) report prior to transfer. This report will confirm the condition of the play equipment at that stage.
- 5.4 If this proposal is agreed by this council then HPC will undertake and fund all ongoing maintenance costs and capital investment in the open space from the point of transfer.
- 5.5 A final decision on this proposal needs to be taken by the Executive.

Background

- 5.6 A plan of Hermitage Green is provided within the supporting information below. Hermitage Green is an area of open space which transferred to West Berkshire Council after the area was developed for housing in approximately 2010. The land comprises a grassed area of approximately 2200 m² with trees, shrubs and a children's play area which is in good condition apart from the current safety surface which is due to be replaced.

5.7 Location Plan:



- 5.8 The routine annual maintenance of Hermitage Green is at least partly covered by a sum which the Countryside Service received as part of a commuted sum from the developer. Currently there is a sum of £11359 available for ongoing maintenance, a proportion of this is drawn down on an annual basis to cover the ongoing maintenance obligations. The remaining funds will be transferred to HPC as part of the transfer agreement.
- 5.9 Included within Hermitage Green open space is a children's playground comprising the more common play equipment features. This equipment is now more than 9 years old and will need to be replaced at some time in the future, perhaps well before the average lifespan of 20-25 years. Ongoing maintenance costs generally increase as the equipment ages. The responsibility for maintaining children's play equipment is therefore a significant undertaking.
- 5.10 This Council has a legal responsibility to ensure children's play areas under our control are maintained 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.
- 5.11 Although no playgrounds have had to close in West Berkshire, as budget pressures become more acute the responsibility for maintenance and investment in playgrounds and play equipment 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.

5.12 Current annual maintenance costs are set out below:

- i. Routine Annual Maintenance Costs. Total costs are £1600/pa. These costs are however partially offset by the commuted sum maintenance contribution which, until exhausted, reduce the true costs to the local taxpayer.
- ii. One off Repairs and Maintenance. These costs, mostly relating to the playground (replacement of worn/damaged equipment) are approximately £500 per year. 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.
- iii. Work is planned to repair the safety surface at this playground, these costs will cost up to £8000 and will need to be completed prior to transfer.

5.13 Current CIL arrangements have an implication for the future maintenance of playgrounds. It is increasingly likely that there will be less capital funding available to the Environment Department in order to manage these assets as they near end of life, or when equipment needs to be replaced. As local councils have a greater CIL allocation, then the likelihood is that this Council will have to approach the relevant parish council for a contribution towards the cost of replacement playground equipment. It makes sense therefore to transfer these assets to the local parish or town council who are better placed to manage the assets into the future.

6 Other options considered

6.1 None. The principle of devolution of open space and built assets to local councils has already been established, most notably the arrangements currently in place with Thatcham Town Council. This proposal, alongside other devolution projects, supports West Berkshire Council's commitment to locally-led service delivery.

7 Conclusion

7.1 Hermitage Parish Council are best placed to manage Hermitage Green in perpetuity as they can engage with a local contractor to provide more tailored maintenance which better meets the needs of the local community. HPC are closer to the local community, have greater understanding of their leisure needs and can draw on CIL reserves so as to ensure the future ongoing maintenance and development of the open space.

7.2 This proposal offers an opportunity for West Berkshire Council to support the devolution agenda and place this open space and playground asset 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.

7.3 This land should therefore be devolved to the Parish on a long lease on terms to be determined in line with other lease arrangements.

8 Appendices

8.1 Appendix A – Equalities Impact Assessment

Background Papers:

Lease, Heads of Terms

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Committee or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Wards affected: Hermitage

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Document Control

Document Ref:		Date Created:	
Version:		Date Modified:	
Author:			
Owning Service			

Change History

Version	Date	Description	Change ID
1			
2			

Appendix A

Equality Impact Assessment (EqIA) - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity as set out in the Public Sector Equality Duty (Section 149 of the Equality Act), which states:

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; This includes the need to:
 - (i) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;*
 - (ii) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;**
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it, with due regard, in particular, to the need to be aware that compliance with the duties in this section may involve treating some persons more favourably than others.**
- (2) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.*
- (3) Compliance with the duties in this section may involve treating some persons more favourably than others.*

The following list of questions may help to establish whether the decision is relevant to equality:

- Does the decision affect service users, employees or the wider community?
- (The relevance of a decision to equality depends not just on the number of those affected but on the significance of the impact on them)
- Is it likely to affect people with particular protected characteristics differently?
- Is it a major policy, or a major change to an existing policy, significantly affecting how functions are delivered?
- Will the decision have a significant impact on how other organisations operate in terms of equality?
- Does the decision relate to functions that engagement has identified as being important to people with particular protected characteristics?
- Does the decision relate to an area with known inequalities?
- Does the decision relate to any equality objectives that have been set by the council?

Please complete the following questions to determine whether a full Stage Two, Equality Impact Assessment is required.

What is the proposed decision that you are asking the Executive to make:	Devolve Hermitage Green to Hermitage Parish Council on a long lease. They will manage the land thereafter.
Summary of relevant legislation:	
Does the proposed decision conflict with any of the Council's priorities for improvement? <ul style="list-style-type: none"> • Ensure our vulnerable children and adults achieve better outcomes • Support everyone to reach their full potential • Support businesses to start develop and thrive in West Berkshire • Develop local infrastructure including housing to support and grow the local economy Maintain a green district • Ensure sustainable services through innovation and partnerships 	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, please indicate which priority and provide an explanation
Name of Budget Holder:	Paul Hendry
Name of Service/Directorate:	Environment
Name of assessor:	Paul Hendry
Date of assessment:	30/12/2020
Version and release date (if applicable):	

Is this a ?		Is this policy, strategy, function or service ... ?	
Policy	Yes <input type="checkbox"/> No <input type="checkbox"/>	New or proposed	Yes <input type="checkbox"/> No <input type="checkbox"/>
Strategy	Yes <input type="checkbox"/> No <input type="checkbox"/>	Already exists and is being reviewed	Yes <input type="checkbox"/> No <input type="checkbox"/>
Function	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	Is changing	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Service	Yes <input type="checkbox"/> No <input type="checkbox"/>		

(1) What are the main aims, objectives and intended outcomes of the proposed decision and who is likely to benefit from it?	
Aims:	Devolve assets and respective costs
Objectives:	Transfer to the Parish
Outcomes:	Reduced costs

Benefits:	Management thereafter at the appropriate level of government
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(2) Which groups might be affected and how? Is it positively or negatively and what sources of information have been used to determine this?

(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation)

Group Affected	What might be the effect?	Information to support this
Age	None	Service remains the same only the responsible body changes
Disability	None	Service remains the same only the responsible body changes
Gender Reassignment	None	Service remains the same only the responsible body changes
Marriage and Civil Partnership	None	Service remains the same only the responsible body changes
Pregnancy and Maternity	None	Service remains the same only the responsible body changes
Race	None	Service remains the same only the responsible body changes
Religion or Belief	None	Service remains the same only the responsible body changes
Sex	None	Service remains the same only the responsible body changes

Sexual Orientation	None	Service remains the same only the responsible body changes
Further Comments:		

(3) Result	
Are there any aspects of the proposed decision, including how it is delivered or accessed, that could contribute to inequality?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer:	
Will the proposed decision have an adverse impact upon the lives of people, including employees and service users?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Please provide an explanation for your answer:	

If your answers to question 2 have identified potential adverse impacts and you have answered 'yes' to either of the sections at question 3, or you are unsure about the impact, then you should carry out a EqlA 2.

If an EqlA 2 is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the EqlA guidance and template – <http://intranet/index.aspx?articleid=32255>.

(4) Identify next steps as appropriate:	
EqlA Stage 2 required	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Owner of EqlA Stage Two:	
Timescale for EqlA Stage Two:	

Name:

Date:

Please now forward this completed form to Pamela Voss, Equality and Diversity Officer (pamela.voss@westberks.gov.uk), for publication on the WBC website.