

CABINET

Wednesday, 11 July 2018

PROPOSED TRANSFER OF LAND AT GUNTON WARREN, LOWESTOFT FROM LOWESTOFT TOWN COUNCIL TO WAVENEY DISTRICT COUNCIL (REP1892)

EXECUTIVE SUMMARY

1. As part of the establishment of Lowestoft Town Council (LTC), several property assets were transferred freehold to the Town Council. This included land at Gunton Warren, Lowestoft.
2. Part of the Gunton Warren land was incorrectly omitted from the transfer process to LTC. This land remains in the ownership of Waveney District Council (WDC). For the reasons set out in this report, approval is sought for the land owned by LTC to be transferred back to WDC .

Is the report Open or Exempt?	Open
Wards Affected:	Gunton and Corton
Cabinet Member:	Councillor Bruce Provan Cabinet Member for Resources
Supporting Officer:	Tony Rudd Valuer 01502 523356 tony.rudd@eastssuffolk.gov.uk

1 INTRODUCTION

- 1.1 Gunton Warren is an area of beach/dunes/heathland to the north of Links Road Lowestoft. On the creation of LTC, it was intended that Gunton Warren be transferred to the LTC.
- 1.2 When LTC was established in 2017, property was transferred to the new council under the Waveney District Council (Reorganisation of Community Governance) Order 2017 (the Order). Schedule 2 of the Order identified those parcels of land which were automatically transferred to the LTC under the terms of the Order. Gunton Warren was identified in the Order as an item of land and property to be transferred to the LTC. Reference to relevant Land Registry titles in the Order was, however, incorrect. As a result of this, on the establishment of the LTC, part of the ownership of Gunton Warren was retained by WDC.
- 1.3 The annexed plan A shows the extent of WDC ownership prior to 2017 at Gunton Warren in red and green outlines. The area transferred to LTC in 2017 is shown in red outline. The section retained by WDC is shown in green outline.
- 1.4 The vast majority of the land within both of these freehold titles is currently leased to Suffolk Wildlife Trust as the tenant. The lease requires the tenant to manage the land in accordance with an agreed management plan and to generally carry out all duties and obligations connected to the land. The sole stated covenant on the landlord is the usual requirement to allow the tenant 'quiet enjoyment'.
- 1.5 To attain the position envisaged when establishing LTC in April 2017, WDC approved the transfer of the retained WDC land to LTC. Cabinet report REP1852 refers. It was noted in REP1852 that LTC might refuse to voluntarily take a transfer of the land which WDC had mistakenly retained. In fact, LTC have confirmed that they do not wish to take on the ownership of that part of Gunton Warren which WDC mistakenly retained. In addition, a formal request has now been made to WDC, that WDC accepts a transfer back of the LTC land at Gunton Warren, that is, for WDC to re-acquire the land transferred to LTC under the Order in 2017.

2 RESOLUTION OF SITUATION

- 2.1 LTC are not under any obligation to accept the transfer approved by WDC Cabinet in April 2018. The main reason for their refusal is understood to be the discovery, since April 2018, of significant historic oil pollution at Gunton Warren.
- 2.2 It is necessary for the situation to be regularised, especially as most of the land is let to Suffolk Wildlife Trust. It is felt important for the Trust to have a clear sole landlord.
- 2.3 The oil pollution is believed to be linked to the wrecking of the Eleni V in 1978. This resulted in considerable oil pollution on many local beaches including that at Gunton Warren. As part of the 'clean up' process, some oil seems to have been placed in pits excavated to the rear of the beach and covered with a layer of sand. The presence of this oil residue was not known when LTC was being established and assets were being transferred. It is likely that the oil deposit extends for much of the frontage of Gunton Warren i.e. it is likely to be within areas of land currently owned by both WDC and LTC.
- 2.4 Due to recent wind/wave/storm action, a layer of this oil has now become exposed, mainly within the WDC retained land at Gunton Warren.
- 2.5 It is not felt at this stage that the oil residue presents a major risk in environmental, financial or economic terms. The intention is to monitor exposure of the oil layer and any resultant impacts.

- 2.6 LTC consider that they are not in a position, financially or practically, to deal with the consequences of the buried oil, were it to be disturbed and create a hazard. Although this seems unlikely, the consequences of it would be potentially very significant.
- 2.7 It is recognised that Suffolk Wildlife Trust need to have a sole landlord. The only realistic option to achieve this, as LTC are not willing to accept the transfer of the WDC retained land, is for WDC to accept the re-acquisition of the LTC land. This may also offer a more consistent and rational approach in dealing with any consequences of the oil residue.

3 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?

- 3.1 The business plan states that WDC will work with partners to ensure that East Suffolk remains a safe place for our communities. The sole ownership of Gunton Warren should enable a consistent approach to the management of the oil residue, thus helping to ensure that any resulting safety issues, however unlikely, are dealt with appropriately.
- 3.2 Protecting, enhancing and making sustainable use of our environment, including managing the effect of our changing coastline, is a critical success factor of the Business Plan. A sole ownership of Gunton Warren should help to provide a consistent approach to the management of the changing coastline.

4 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 4.1 It is proposed that the transfer will be at nil consideration to WDC from LTC i.e. no payment will be made. This approach is proposed as no payment was made in connection with the earlier transfer of the land from WDC to LTC.
- 4.2 If the land is re-acquired by WDC, there may be some financial implications for managing resources. The financial arrangements between WDC and LTC assumed that all of the land would be owned by LTC. These implications seem likely to be limited given that many of the obligations continue to fall to the Suffolk Wildlife Trust, as the tenants. Any financial or other liabilities associated with the oil residue on land owned by WDC would, in the unlikely event of them materialising, fall upon WDC.
- 4.3 The establishment of LTC did set an overall budget for LTC on the basis that all of the land mentioned in the Order had transferred to them. Many sites transferred to LTC had some budget provided assessed in line with identified costs associated with the site e.g. maintenance costs or contract costs. In the case of Gunton Warren no budget was provided as there were no direct WDC costs attributed to the site. This is largely because of the lease arrangements with Suffolk Wildlife Trust. When considering a transfer back to WDC there are no identifiable financial implications that can clearly be shown in terms of regular management of the site.
- 4.4 If the land is not transferred back to WDC, there may be governance and legal issues arising. This is particularly the case, given the lease to Suffolk Wildlife Trust. The area of land let to the Trust currently includes land owned by both WDC and LTC.
- 4.5 Failure by WDC to accept the proposed transfer would seem likely to hinder partnership working between the two Councils.
- 4.6 A valuation of the freehold carried out in June 2018 indicated that the unrestricted freehold value of the current LTC site is £173,000. Although this appears to be a significant value, it is worth noting that the site is considerable – it extends to 17.8 hectares i.e. in excess of 43 acres. It is unlikely that WDC could gain any significant income from the site.

- 4.7 LTC would need to confirm that it had taken any steps necessary under its governance or statutory obligations to facilitate the transfer including any implications of the statutory Open Space Disposal process under the Open Spaces Act 1906

5 OTHER KEY ISSUES

- 5.1 No Equality Impact Assessment or Sustainability Impact Assessment has been undertaken. The nature of the use of the land is not intended to change whether LTC or WDC own it. As the current use will continue no Equality Impact Assessment or Sustainability Impact Assessment are required. No detailed Partnership Impact Assessment has been undertaken. However, proceeding with the proposed transfer is likely to aid better partnership working between the two Councils.

6 CONSULTATION

- 6.1 LTC have been consulted regarding Gunton Warren and as a result have made the request for WDC to re-acquire the land in question.

7 OTHER OPTIONS CONSIDERED

- 7.1 The other option is to continue with the land ownerships as they are i.e. split between the LTC and WDC. This would not address the concerns expressed by the LTC, nor the issue of the Suffolk Wildlife Trust needing one landlord, rather than two.

8 REASON FOR RECOMMENDATION

- 8.1 The proposed freehold transfer of the land edged red from the LTC back to WDC is a way of addressing the need for Suffolk Wildlife Trust to have a sole landlord. It would also help ensure a consistent approach to the management of Gunton Warren as a whole.
- 8.2 The proposed disposal would be subject to the statutory Open Space Disposal process under the Open Spaces Act 1906.
- 8.3 To note the situation regarding the part of Gunton Warren retained by WDC and the subject of the Cabinet report REP1852 approved in April 2018.

RECOMMENDATIONS

1. That the freehold transfer of the land at Gunton Warren, Lowestoft, shown edged in red on the plan annexed to this report, from the Lowestoft Town Council to Waveney District Council, be approved, for nil consideration.
2. That delegated authority be granted to the Head of Operations and Strategic Management, acting in consultation with the Cabinet Member for Resources, and the Head of Legal and Democratic Services, to agree the details of the transfer on terms that best protect the Council's interests.
3. That it be noted Lowestoft Town Council are not willing to accept the transfer of land at Gunton Warren, edged green on the plan annexed to this report, from Waveney District Council as approved under Cabinet report REP1852 and, this being the case, this land will be retained by Waveney District Council.

APPENDICES	
Appendix A	Plan

BACKGROUND PAPERS – None
