

CABINET

Wednesday, 11 April 2018

PROPOSED TRANSFER OF LAND AT GUNTON WARREN, LOWESTOFT TO LOWESTOFT TOWN COUNCIL (REP1852)

EXECUTIVE SUMMARY

1. As part of the establishment of Lowestoft Town Council several property assets were transferred freehold to the Town Council. This was intended to include land at Gunton Warren.
2. Part of the Gunton Warren land was incorrectly omitted from the transfer process at the time. This report seeks approval for a land disposal to try to address this omission.

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@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 Lowestoft Town Council (LTC) was established in 2017. Property was transferred to the new council under the Waveney District Council (Reorganisation of Community Governance) Order 2017. Schedule 2 of the Order identified Gunton Warren as an item of land and property to be transferred to the new council. Reference was incorrectly made to Land Registry titles SK262090 and SK351144 in respect of this. The latter reference should have been to SK262091.
- 1.2 Gunton Warren is an area of beach/dunes/heathland to the north of Links Road Lowestoft. The Waveney District Council (WDC) freehold ownership of this land is held under two Land Registry titles, SK262090 and SK262091. The vast majority of the land within both of these freehold titles is currently leased to Suffolk Wildlife Trust, the registered leasehold title for the leased land being SK351144.
- 1.3 Plan A shows the extent of Gunton Warren which was intended to be transferred to the new Council in red outline. The freehold section within title SK262091 which was omitted from the Order is shown in red outline on Plan B.

2 RESOLUTION OF SITUATION

- 2.1 To attain the position envisaged when establishing LTC, the relevant part of the land within SK262091 now needs to be transferred to LTC. This can be achieved through the usual legal process adopted for other freehold sales or transfers.
- 2.2 If WDC resolve to transfer the land, there may be no legal obligation upon LTC to accept the transfer. Whether or not LTC accept the transfer can only realistically be established if WDC resolve to transfer the land. It seems unlikely that LTC would refuse to accept the freehold - the vast majority of the area is tenanted at present so obligations falling to LTC as the landlord/freeholder would be very limited.

3 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?

- 3.1 The intended transfers under the Order were a result of the Community Governance Review of unparished areas of Lowestoft. This was a specific action for Waveney under the East Suffolk Business Plan.
- 3.2 Under the East Suffolk Business Plan the empowerment of local town and parish councils, by continuing to transfer amenity and community assets to them with their agreement, is a planned action for the whole of East Suffolk.

4 FINANCIAL AND GOVERNANCE IMPLICATIONS

- 4.1 If the land is not transferred there are likely to be financial implications for managing resources. The financial arrangements between WDC and LTC assumed the land would be transferred.
- 4.2 If the land is not transferred there may be governance and legal issues arising. This is particularly the case given the lease to Suffolk Wildlife Trust. The Trust's demise includes this land as well as land already transferred to LTC.
- 4.3 If the land is not transferred this will increase risks to WDC as compared to the intended position. Failure by WDC to approve the proposed transfer also seems likely to hinder partnership working between the two Councils as it would differ from the intended position.

- 4.4 A valuation of the freehold carried out in January 2018 indicated that the unrestricted freehold value of the subject site is £82,000. Although this appears a significant value it is worth noting that the site is considerable – it extends to 6.7 hectares i.e. in excess of 16 acres. It is also necessary to consider the ‘restricted value’ of the site i.e. a value which takes in to account any voluntary conditions to be imposed by WDC through the transaction. This might include, for instance, restrictive covenants in respect of future disposals. In this matter no voluntary conditions are proposed, so the restricted value is the same as the unrestricted value.
- 4.5 Under the Local Government Act 1972 Section 123 WDC may not dispose of land for a consideration less than the best that can reasonably be obtained without consent of the Secretary of State. The General Disposal Consent (England) 2003 provided that the consent of the Secretary of State is not required where the unrestricted value of the land does not exceed £2,000,000.
- 4.6 Certain other conditions also apply the General Disposal Consent. The disposal must be likely to contribute to the improvement of economic, social or environmental well-being of persons resident or present in its area.
- 4.7 The outcomes of the Community Governance Review were accepted by the UK government. It was noted in the terms of reference for the review that it ought to bring about improved community engagement and better local democracy. These both contribute to improved social well-being. In some cases external funding towards local projects is only available to town and parish councils. This opportunity may also contribute to improved social well-being.
- 4.8 The proposed transfer was intended to occur under the Order. It would therefore contribute to the overall improved social well-being afforded through the Order.
- 4.9 The improved simplicity of there being a sole landlord for the Suffolk Wildlife Trust lease should contribute toward improved environmental well-being.
- 4.10 The proposed disposal would be subject to the statutory Open Space Disposal process under the Open Spaces Act 1906. This requires that the proposed disposal is the subject of a notice in a local newspaper for two consecutive weeks and that any objections arising are considered by WDC. This process cannot be commenced until WDC has approved the proposed transfer in principle. There would be a cost to WDC attached to this process e.g. in arranging publication of notices. This is likely to be in the region of £500.

5 OTHER KEY ISSUES

- 5.1 No Equality Impact Assessment or Sustainability Impact Assessment has been undertaken as the use of the land is unlikely to change. Although no detailed Partnership Impact Assessment has been undertaken, it seems likely that not providing an opportunity for the proposed transfer would not aid partnership working between the two Councils.

6 CONSULTATION

- 6.1 The WDC Legal team has been consulted. It is felt the most suitable manner of resolution would be the proposed transfer.
- 6.2 The WDC project manager leading on the Community Governance Review has also indicated this is felt to be the most suitable option.

7 OTHER OPTIONS CONSIDERED

- 7.1 None as the proposal is the only option in line with WDC’s intended position under the Order.
- 7.2 To protect WDC’s interests in such cases it is often sought to apply restrictive covenants to the transfer in respect of future use of the land and/or future disposals. It is not proposed to do so in this case. Had the transfer been achieved through the Order, no specific restrictive covenants would have been applied. Any redevelopment or change of use would be subject to the usual Planning regime.
- 7.3 It may be necessary to consider other options should approval be given but LTC decline to accept the transfer.

8 REASON FOR RECOMMENDATION

- 8.1 The proposed freehold transfer is by way of addressing an omission made in Schedule 2 of the Waveney District Council (Reorganisation of Community Governance) Order 2017.
- 8.2 The proposed disposal would be subject to the statutory Open Space Disposal process under the Open Spaces Act 1906.

RECOMMENDATIONS	
1.	That the freehold transfer of the land at Gunton Warren Lowestoft shown edged in red on Plan B plan is approved, in principle, to Lowestoft Town Council, subject to the necessary advertisements required under the Open Spaces Act 1906 being placed and responses to them being considered further
2.	That if objections to the necessary advertisements referred to in recommendation 1 above are received, they be reported back to Cabinet for its further consideration
3.	That if no objections to the necessary advertisements referred to in recommendation 1 above are received, delegated authority is granted to the Head of Operations Strategic Management, acting in consultation with the Cabinet Member for Resources, and Head of Legal and Democratic Services, to finalise all aspects of the transfer on terms that best protect the Council’s interests.

APPENDICES	
Appendix A	Plan A
Appendix B	Plan B

BACKGROUND PAPERS - None
