

CABINET

Wednesday, 11 April 2018

PROPOSED TRANSFER OF LAND AT NORMANSTON ALLOTMENTS, LOWESTOFT TO LOWESTOFT TOWN COUNCIL (REP1851)

EXECUTIVE SUMMARY

1. As part of the establishment of Lowestoft Town Council several property assets were transferred freehold to Lowestoft Town Council. This was intended to include land at Normanston Allotments.
2. The Normanston Allotment land was not specifically included in the process at the time. This report seeks approval for a land disposal to clarify the position.

Is the report Open or Exempt?	Open
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Wards Affected:	Normanston
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Cabinet Member:	Councillor Bruce Provan Cabinet Member for Resources
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Supporting Officer:	Tony Rudd Valuer 01502 523356 tony.rudd@eastsoffolk.gov.uk
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1 INTRODUCTION

- 1.1 Lowestoft Town Council (LTC) was established in 2017. It was intended that the property transferred to LTC would include all allotment sites owned by Waveney District Council (WDC) within the LTC area. Property was generally transferred to the new council under the Waveney District Council (Reorganisation of Community Governance) Order 2017. Allotment sites were dealt with differently. They were not included within Schedule 2 of the Order, the transfer to some extent relying upon the Local Government (Parishes and Parish Councils) (England) Regulations 2008. The relevant sites were however identified in the explanatory note to the order, but the Normanston Allotment site was omitted from this note.
- 1.2 All of the relevant WDC allotment sites are leased to Lowestoft and District Allotments Limited i.e. the 'allotment association'. The lease expires in 2023.
- 1.3 The Normanston Allotment site is shown on Plan C in red and blue outline. The red outline consists of allotments and circulation space. The blue outline area is an area of hedge/scrub/grass verge. Both areas are included within the lease demise to Lowestoft and District Allotments Limited.
- 1.4 Plan C also shows an area outlined in green. This is an access path which provides access to the allotments. Access is controlled by padlocked pedestrian gates - to the north end, the south end, and to Field View Drive. This area is not within the demise to Lowestoft and District Allotments Limited.
- 1.5 The red, blue and green outline areas are all registered to WDC under Land Registry freehold title SK261721.

2 RESOLUTION OF SITUATION

- 2.1 Legal advice is that transfer of the red outlined area may have occurred through the action of the Local Government (Parishes and Parish Councils) (England) Regulations 2008. To ensure clarity, especially in relation to the blue and green outline areas, a freehold transfer of all the relevant areas is felt to be advisable. This could 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 freehold transfer. Whether or not they accept the transfer can only realistically be established if WDC resolve to transfer the land. LTC have indicated that it believes the Normanston allotments will have transferred in law under the Local Government (Parishes and Parish Councils) (England) Regulations 2008. It seems very unlikely LTC would refuse to accept the proposed transfer.

3 HOW DOES THIS RELATE TO EAST SUFFOLK BUSINESS PLAN?

- 3.1 The intended transfers to LTC 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 Normanston Allotments 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 Lowestoft and District Allotments Limited which includes both the red and blue outlined areas.
- 4.3 If the land is not transferred this will increase risks to WDC as compared to the intended position – WDC may retain some liabilities in respect of some of the land.
- 4.4 Failure by WDC to approve the proposed transfer also seems likely to hinder partnership working between the two Councils. Given that the green outlined land currently provides the only access to the allotment site its transfer would assist partnership working.
- 4.5 A valuation of the freehold land carried out in January 2018 indicated that the unrestricted freehold value of the subject site is £25,000. 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.
- 4.6 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.
- 4.7 Certain other conditions also apply under the General Disposal Consent (England) 2003. 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.
- 4.8 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.
- 4.9 The proposed transfer was intended to occur through the outcomes of the Community Governance Review. It would therefore contribute to the overall improved social well-being afforded through the Review.

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. No detailed Partnership Impact Assessment has been undertaken but it seems likely that not providing an opportunity for the proposed transfer may hinder partnership working between the two Councils.

6 CONSULTATION

- 6.1 The WDC Legal team has been consulted. It is felt that 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 The situation could be allowed to rely upon the Local Government (Parishes and Parish Councils) (England) Regulations 2008. It is however unclear if this would apply to all of the red, blue and green outline areas. It is felt that the lack of clarity would not be beneficial to WDC, LTC or Lowestoft and District Allotments Limited.

7.2 To protect WDC's interests in such cases it is often sought to apply restrictive covenants in respect of future use of the land and/or future disposals. It is not proposed to do so in this case. If the transfer was allowed to rely upon the Local Government (Parishes and Parish Councils) (England) Regulations 2008 no specific restrictive covenants would apply.

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 would clarify the current ownership position by way of addressing a lack of clarity in the Waveney District Council (Reorganisation of Community Governance) Order 2017.

RECOMMENDATIONS

1. That the freehold transfer of the land at Normanston Allotments identified in Plan C shown edged in red, blue and green to Lowestoft Town Council is approved.
2. That 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 of Allotments
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BACKGROUND PAPERS - None