



CABINET REPORT

Report Title	Transfer of Assets to Parish Councils
---------------------	----------------------------------------------

AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	16 th November 2016
Key Decision:	YES
Within Policy:	YES
Policy Document:	NO
Directorate:	Regeneration, Enterprise & Planning
Accountable Cabinet Member:	Cllr Tim Hadland, Member for Regeneration, Enterprise and Planning
Ward(s)	Various

1. Purpose

- 1.1 This report seeks authority to commence negotiations with Parish Councils to transfer Council assets, primarily areas of land and open space, in order to facilitate their local management.

2. Recommendations

- 2.1 That approval be given to commence negotiations with Parish Councils for the disposal of assets by way of long leases in the outline form set out in Appendix 1 (attached).
- 2.2 That approval be given to the Chief Executive in conjunction with the Chief Finance Officer and the Borough Secretary to agree the terms of any asset transfer to Parish Councils as appropriate, in consultation with the Cabinet Member for Regeneration Enterprise and Planning.

- 2.3 That on any proposed transfer of land or property to a Parish Council, Officers be instructed to formally consult the Ward Councillor/s for the area in which any such land or property falls.
- 2.4 That it be noted that should terms be agreed for the proposed transfer of any assets to Parish Councils, that Cabinet will be asked to make the final decision in all cases.

3. Issues and Choices

3.1 Report Background

- 3.1.1 Northampton Borough Council (NBC) own areas of land within Parishes including monuments open space and parks which are managed and maintained by NBC
- 3.1.2 NBC charges special expenses to its residents as part of its Council Tax charge. This special expense charge is primarily used to contribute to the costs of maintaining parks and open spaces in the Borough. Because these smaller parks and opens spaces are not evenly distributed across the borough, the special expense charge (unlike the main council tax element) differs across the parished areas of the Borough.
- 3.1.3 Some Parish Councils have expressed an interest in taking ownership of some of these areas of open space in order to manage and maintain them locally.
- 3.1.4 The responsibility for maintaining these areas, and the funding of that maintenance, would be transferred to the Parish Councils. This may require increases in the Parish Precept unless that can be accommodated within their existing budgets.
- 3.1.5 NBC would no longer have the responsibility for management and maintenance and would no longer charge special expenses for these areas.
- 3.1.6 The Council has established policy to support community asset transfer, having previously implemented a programme for the transfer of Community Centres. However this policy only related to Community Centres and it is therefore necessary to establish the framework within which discussions with Parishes can be held

3.2 Issues

- 3.2.1 A number of the assets which will be considered for transfer will comprise Public Open Space and therefore a proposal to dispose by way of long lease will need to be advertised in accordance with s123 of the Local Government Act 1972 (LGA). Any representations received from this advertisement will need to be considered. Reports provided pursuant to recommendation 2.4 of this report will include provisions for such consideration. Cabinet should note from the Appendix to this report that it is proposed that open space status be protected in the terms of any disposal.

3.2.2 Transfers to the Parish Councils will need to satisfy the best value provisions of the LGA and accordingly. NBC will therefore need to demonstrate that best value has been obtained or that the transfer helps to secure the economic social or environmental well-being of its area. The proposal is that disposals should be at a peppercorn rent. This may, in some cases, amount to an undervalue against a strict 'open market' valuation of the asset however the Council has the benefit of a general consent from the Secretary of State for such disposals if the undervalue is less than £2million (which it will be in all cases) and the proposal contributes to promoting economic, social or environmental wellbeing in its area. It is considered that placing maintenance of this sort of asset in the hands of the local community through its Parish Council is justifiable as contributing to social and environmental wellbeing.

3.3 Choices (Options)

3.3.1 Allow NBC officers to discuss with the Parish Councils the option to transfer open space assets to the Parish Councils together with the responsibility to manage and maintain these assets. NBC would therefore no longer charge special expenses for this land. There would be no obligation for the Parishes to agree any transfer. This is the recommended option.

3.3.2 Do not allow officers to hold these discussions. If this was the case then these areas of open space would remain the property of NBC and NBC would continue to be responsible for managing and maintaining this land..

4. Implications (including financial implications)

4.1 Policy

4.1.1 This report does not set Policy.

4.2 Resources and Risk

4.2.1 Should assets be transferred pursuant to this report it is anticipated that there would be a reduction in the costs to NBC of management and maintenance however there would also be a discontinuance of special expenses charged which it is anticipated would result in a broadly neutral financial position for NBC.

4.2.2 Should there be an interest from Parish Councils in this matter (which there is in some cases), and were NBC to decide not to facilitate the transfer, there would be a risk of undermining the close working relationship between NBC and Parish Councils within the Borough.

4.2.3 It is proposed that the terms of the lease of assets to Parishes contain flexible provisions for termination so that both parties can reconsider the matter at a future date should any unforeseen problems arise from the transfer of responsibility.

4.2.4 There is a risk that, should the asset be transferred Parishes may not carry out maintenance as required. This risk has been mitigated within the proposed

transfer structure outlined in Appendix 1 by giving NBC the ability to terminate the lease and take back possession.

- 4.2.5 NBC's ability to transfer some assets may be restricted by title or legal constraints. This risk is mitigated as full title information will be considered before the transfer of any asset is submitted to Cabinet for approval.

4.3 Legal

- 4.3.1 The legal implications of Section 123 LGS 1972 have been covered in paragraph 3.2 of this report.

- 4.3.2 The Council's lawyers would carry out the legal transfers should these be agreed.

- 4.3.2 The Council's lawyers would draft any necessary notices required in compliance with S123 LGA as described above.

4.4 Equality and Health

- 4.4.1 Provisions for the maintenance of access by the public in no less measure than is afforded currently will be included in the transfers or provided by separate agreement.

4.5 Consultees (Internal and External)

- 4.5.1 Parks Services have been consulted on the proposed process of negotiation recommended by this report. Parks Services, Finance, Legal and Governance will be consulted on any reports produced as under Section 2.4 of this report.

4.6 How the Proposals deliver Priority Outcomes

- 4.6.1 The proposals contained in this report could increase input from residents in the management and maintenance of local assets.

4.7 Other Implications

- 4.7.1 We are not aware of any other implications arising from the recommendations contained within this report.

5. Background Papers

- 5.1 File, reference ATransparishGMM / 03, which contains *exempt* information of *commercial sensitivity*.

Report Author: David Kennedy, Chief Executive

Contact: 01604 838725