

Appendices:

Annex 1 - 4



NORTHAMPTON
BOROUGH COUNCIL

CABINET REPORT

Report Title	Asset Management Disposals
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	9 th September 2020
Key Decision:	Yes
Within Policy:	No
Policy Document:	Yes
Service Area:	Economy & Assets
Accountable Cabinet Member:	Cllr Tim Hadland, Regeneration & Enterprise
Ward(s)	Nene Valley Ward, Castle Ward, Talavera Ward, New Duston Ward

1. Purpose

- 1.1 This report seeks approval from Cabinet to consider the sites identified below as surplus to the Council's requirements and approves the recommendation that these sites be disposed of pursuant to the provisos noted in the report.

2. Recommendations

- 2.1 Cabinet delegates authority to the Economic Growth and Regeneration Manager, in consultation with the Borough Secretary, Chief Finance Officer and Cabinet Member for Regeneration and Enterprise to agree the terms and conditions and complete the transfers of the following property and land:-

2.1.1 Farmclose Road, Land adjacent to Cemetery

- That the transfer is to Wootton Parish Council for community use
- A restrictive covenant is placed on the land to ensure that it continues to be used as intended for community use.

- The site continues to be maintained by the Council (currently under a landscape maintenance contract June 2028) and this contract for grass cutting and associated services will continue once the site has transferred subject to the ongoing collection of special expenses for these services.
- The Parish Councils will take on all other responsibilities for the land and centres at completion of the community asset transfer.
- The Council to retain a right of pre-emption should the Parish Council no longer require the land or centres for permitted use.
- The market valuation will consider the financial benefit of the grass cutting contract, the management and maintenance costs, the restrictive covenant, and where relevant, the council tax charges collected on behalf of the Parishes for services provided in the Parish Council areas. A net market value will be determined, and the transfer price will be agreed considering any value for money savings that will be achieved by the transfer.
- Each party will bear their own professional fees including legal and estates costs.
- The community assets are held on the council asset register with a nominal capital value, reflecting the exiting use. To ensure the transfers achieve value for money a market valuation will be completed and Economic Growth and Regeneration Manager, in consultation with the Borough Secretary, Chief Finance Officer.

2.1.2 Becketts Park Pavilion

- To market the site as a Community Asset Transfer inviting expressions of interest from Third Party Sector organisations as identified in paragraph 3.3.7. below.
- A qualifying process will then follow, and a panel of Officers and Members will review the applications and report back to Cabinet with a recommendation identifying the preferred organisation and include the outline terms of the transfer and adherence to the requirement to achieve value for money.

2.1.3 Land at Blackthorn Bridge Court

- To sell the land by private treaty to the Blackthorn pharmacy operator at market value as determined by a RICS registered valuer.

2.1.4 Land abutting 11a Eastfield Road

- To sell the land by private treaty to the owner of 11a Eastfield Road at market value as determined by a RICS registered valuer.

2.1.5 The transfer of all the above will be subject to advertisement to adhere to statutory requirements to allow members of the public opportunity to comment. These comments will be reviewed by the Economic Growth and Regeneration Manager, in consultation with the Borough Secretary, and the Cabinet Member for Regeneration and Enterprise and should there be no objections to

the proposed disposal received the matter will complete. If there are any objections received to the proposed disposal then in accordance with statutory procedure the matter will be brought back to Cabinet for consideration.

3. Issues and Choices

3.1 Report Background

3.1.1 The Council has substantial property and land holdings acquired over many years. There is a duty to regularly review the assets to consider whether they should be retained by the Council or released to other parties in line with government policy and corporate objectives.

3.1.2 The property and land below have been identified as surplus to the Councils requirements and have been prepared for disposal, annexed to this report is a summary of each site together with an indicative plan of the site.

3.2 Farmclose Road, Land adj to Cemetery

3.2.1 The Council is the freehold owner of this site currently used as unrestricted recreational area by the community. Historic maps indicate this was farm land before Farmclose Road was built by the local authority of the time (it would have been pre-1974 reorganisation).

3.2.2 The land below the site to be transferred, was designated as a cemetery and this site was left probably intended to be held for future cemetery expansion. The cemetery itself belongs to Wootton Parish Council.

3.2.3 When the nearby Wootton Fields housing development was laid out in the 1990s, land to the south was set aside for a community hall, which was constructed, and subsequent land transfers took place to allow for play equipment to be sited. The playing fields are in the ownership of David Wilson Homes and are in the process of being transferred to Wootton Parish Council

3.2.4 Officers have reviewed this site and in conjunction with Wootton Parish Council conclude that the land should remain for recreational use by the community but note that longer term it may be required for cemetery extension in the future (subject to usual consents).

3.2.5 Emerging planning policy (NLPP2) shows the site falling under Policy 24 Open Space, Sports and Recreation (Churchyards and Cemeteries) and Local Policy 1997 Policy E6 (Greenspace) and that it may in future be assessed as potential to extend the neighbouring cemetery.

3.2.6 It is important to note that the NLPP2 is out for consultation at the moment, the responses will have to be considered and the document reviewed before the next stages, it is therefore referred to in this report as a draft document – the weight the document carries in determining planning applications will increase as the plan progresses.

3.2.7 The site is currently maintained by the Council under a landscape maintenance contract to June 2028 and this contract for grass cutting and associated services will continue once the site has transferred subject to the Parish continuing to pay the special expenses for these services.

3.3 Becketts Park Pavilion

3.3.1 This timber clad pavilion was built circa 1920s and used until recently as a café for park users to enjoy. Sadly, the leaseholder died in 2017 and the café remains closed.

3.3.2 Since the café has been closed it has been the subject of frequent vandalism and attracted anti-social behaviour. The property has been reviewed by assets with the aim of bringing it back into a functional use but given the poor condition of the building and the recognition that the Council does not have sufficient staff with necessary skills and experience to operate a successful community café, an alternative solution needs to be found to preserve a café in the park.

3.3.3 Becketts Park is one of Northampton's primary open spaces, located to the south of the town, and enjoyed by students, boaters and the wider community. In 2019 the Council commissioned a masterplan for the park, produced by Buddies of Becketts (BOB), which made recommendations on many aspects.

3.3.4 The Becketts Park masterplan was a thorough review which included consideration of the history of the park, current planning policy, previous masterplans of the area, and the results of extensive public and stakeholder consultation. Documents reviewed included: -

- Waterside Northampton, Development Framework and Masterplan 2005 and its review in 2008 (Halcrow)
- Open Parks, Sports and Recreational Needs Assessment and Audit 2009 (NBC)
- Nene Meadows Masterplan 2010.
- Becketts Park Master Plan 2008 (found on the NBC website)

3.3.5 The proposal for the café is to market the opportunity for a qualified community organisation to submit a tender, including business plan, demonstrating credible evidence that they have the financial resources and ability to take control of the café and fulfil the recommendation contained within the masterplan to reopen a community café in the park.

3.3.6 Effective and carefully managed transfers of assets to the local community can bring benefits not only to the Council but also to its community partners. Such transfers provide the potential to strengthen the role and future sustainability of local community assets and organisations.

3.3.7 Consideration has therefore been given to the best outcome for the Pavilion and it is recommended that this asset should be transferred to a community or voluntary organisation. The process will be:-

- The advert will be prepared to market the site as a Community Asset Transfer and in conjunction with this Council will advertise the disposal of an open space in the local press.
- The marketing advert will be asking for expressions of interest from the voluntary and community sectors ie third party sectors (TPS). A TPS is one which:-
 - Is independent of the public sector;
 - Is value driven, ie motivated to achieve social goals(eg improving public welfare, the environment and economic well-being) rather than the desire to distribute profit and
 - Reinvests surpluses generated in pursuit of their goal.

3.3.8 Applicants will need to follow the instructions on the advert and contact the Corporate Asset Manager to get an application form, complete it fully and return it to the Corporate Asset Manager by the closing date.

3.3.9 A panel of officers and members will review the applications, and each will be scored to arrive at a decision. Further details of the qualities the Council are assessing, and the timeline of the process will be sent to interested parties.

3.3.10 Any organisation submitting an application should be able to provide supporting information about themselves, including demonstrating existing credible evidence of sympathetically working within a park setting and be able to confirm their ability to make surpluses (to be financially sustainable) which may include outlining their plans to get funding to invest in the facility.

3.3.11 Once the qualifying process has concluded a report will be brought back to Cabinet with a recommendation identifying the preferred organisation together with an outline of the main terms of the transfer.

3.4 Blackthorn Pharmacy (Land off Blackthorn Road)

3.4.1 This disposal concerns the pharmacy operator (currently located in the community shop) and planning permission obtained by the pharmacy operator to build a new unit for pharmacy purposes, a larger area ensuring the bigger unit remains in the area by providing more services.

3.4.2 It is understood that some years ago the Council agreed in principle to sell an area of land to the pharmacy operator to enable a larger pharmacy to be provided, but the area of land previously agreed for that purpose then became required for a play area (funded by the Growing Together Community Group with lottery funding) and as a result of continued local support for a pharmacy an alternative new site, adjacent to the community shop. See plan annexed to this report.

3.4.3 The applicant has obtained planning permission, which was granted on 14th February 2018, expiring on 14th February 2021 under planning reference N/2017/1539 to build the pharmacy unit and therefore the intention is to dispose of the site to enable the development to commence.

3.4.4 The proposal is to sell the site subject to the planning permission granted at market value, a RICS market valuation has been obtained.

3.5 Land abutting 11a Eastfield Road

3.5.1 The owner of 11a Eastfield Road obtained planning permission on 22 January 2019 to permit development of a two-storey rear extension and the change of use of highway verge to form private parking spaces, planning reference N/2018/1313.

3.5.2 Planning assessed the application taking account of consultation responses and the application was subsequently approved.

3.5.3 The owner of the property developed the scheme; however they do not own the highway verge where the two vehicle parking spaces have been created, the owner being Northampton Borough Council.

3.5.4 Various correspondence has been received between the owner and the Councils Assets team and in summary the asset team in this instance agree to dispose of this small area of land to the owner at market value, subject to all reasonable costs being paid.

3.5.5. It should be noted that any application for change of use on Council owned land will not only require planning permission, but also need to be determined in line with the Council's asset strategy for the land. Each application will be assessed on its own merits in line with Council policy and processes.

3.6 Issues

3.6.1 To ensure the land proposed to be transferred to Wotton Parish Council community remain for the intended use a restriction will be put on title so that no change of use would be allowed without further consideration.

2.6.2 Becketts Park Pavilion is not in good repair, the community organisation will be expected to take on the property in the current condition, secure the site and demonstrate they have the resources to deliver the outcomes for the Pavilion.

3.7 Choices (Options)

3.7.1 The Council could choose not to proceed with the recommendations above and retain some or all of the sites, which may result in:-

3.7.1.1 Farmclose Road would continue to be retained as the existing use with the responsibilities of land ownership remaining with the Borough Council. This would not facilitate local empowerment for the community and the costs associated with maintenance and insurance would remain.

- 3.7.1.2 Becketts Park Pavilion would remain closed and continue to fall into disrepair. It would remain under review by the Borough but there would not be a resource to focus on this asset alone and therefore progress to bring it back into use would be slow.
- 3.7.1.3 Land for Blackthorn Pharmacy has been progressed to this stage following much consultation, and if it does not proceed may be at risk of closure as the current space is identified as not being suitable by the pharmacy governing body.
- 3.7.1.4 Land at 11a Eastfield Road has been approved by planning for change of use, there is no benefit in retaining the land, any income for rental would be minimal and not cover the management costs incurred.

3.7.2 The Council can choose to proceed as stated in section 2.1.1 – 2.1.4 of the recommendations, which is the preferred option.

4. Implications (including financial implications)

2.2 Policy

- 2.2.1 The disposals are in line with the Corporate Plan.
- 2.2.2 The recommendations in this report do not set policy or have implications on existing policies set.

2.3 Resources and Risk - Finance

- 2.3.1 These community assets are held on the council asset register with a nominal capital value, reflecting the exiting use. To ensure the transfers achieve value for money a market valuation will be completed and the Economic Growth and Regeneration Manager, in consultation with the Borough Secretary, Chief Finance Officer and Cabinet Member for Regeneration will have delegated authority to agree the terms and conditions and complete the transfers.
- 2.3.2 Each Council will pay their own legal estates costs.
- 2.3.3 Northampton Borough Council also charge special expenses for the maintenance of their parks and open spaces as part of the Council Tax. These costs will be factored into the valuation to assist in determining the market value and the transfer price. The Council may continue to charge the special expenses where grass cutting services are provided and each site will be reviewed on a case by case basis.
- 2.3.4 All contractual open space grounds maintenance costs will be determined and factored into the market valuation to ensure the Council achieves value for money.

4.3 Legal

4.3.1 It is noted that the Council assets identified above consider different forms of disposal from community asset transfer to disposal by way of private treaty (ie where the sale of land is negotiated with one or a small number of interested parties as a result of a direct approach).

Community Assets Transfer

4.3.2 Pursuant to the provisions of the Local Government Act 1972 (LGA 1972), the Council has the power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate , or is conducive or incidental to, the discharge of any of its functions and the proposed community asset transfer are governed by the provisions of the LGA 1972 as outlined in paragraph 4.3.3

4.3.3 It is noted that Farmclose Road adjacent to the cemetery and Becketts Park Pavilion have been identified as potential community asset transfers. The disposal of such assets is governed by section 123 of the LGA 1972. It follows therefore, that the Council as trustee, in relation to the land it holds on behalf of the community has a statutory duty to sell the land at the best price reasonably obtainable, unless the exception under the General Disposal Consent (England) 2003 applies.

4.3.4 As noted in paragraph 4.3.3 above, the General Disposal Consent (England) 2003 provides consent for the Council to dispose of land for less than best consideration that can reasonably be obtained where the Council considers the purpose of disposal at less than best price will achieve the promotion or improvement of the economic, social or environmental wellbeing for the area and/or local residents, subject to the caveat that in all cases disposal at less than best consideration that the undervalue does not exceed £2,000,000 (2 Million)

4.3.5. Notwithstanding paragraph 4.3.4 above, the Council nonetheless needs to ensure that it complies with normal prudent commercial practices including obtaining the view of a professionally qualified valuer as to the likely amount of any undervalue, where this is relevant. Such a valuation sets out the unrestricted value (best price reasonably obtainable) the restricted value together with the value of the conditions. This will ensure that the monetary value had been taken into account by the Council.

4.3.6 In addition to the above requirements there are further procedural steps that the Council are required to comply with in order to meet its statutory duty under s.123 LGA 1972. Pursuant to s.123 (2A) of the LGA 1972 in advance of any final decision to dispose of any open space land the Council must first advertise its intention to do so in a local newspaper for two consecutive weeks and thereafter consider any objections received.

4.3.7 There is also connected with any disposal the requirement to consider procurement regulations where relevant and ensure that legal advice is obtained as part of the disposal process.

4.3.8 It is noted at paragraphs 3.3.7 to 3.3.9 makes reference to the community asset transfer application process. It is recommended that any application process undertaken by the Council is robust in approach and ensures that any applicant under the process has good transparent governing procedures in place so that the Council can be confident that the Council's intended objectives are achieved.

Sale by Private Treaty

4.3.11 With respect to disposal of Council assets by way of private treaty which is proposed with respect to land at Blackthorn Pharmacy and land abutting 11a Eastfield Road, with regard to these proposed transactions the Council has the power pursuant section 1 (1) of the Localism Act 2011 to power to do anything that individuals generally may do, subject to the restraints of public law.

4.3.12 The Council has both a statutory and fiduciary duty to obtain best consideration for the disposal of the land. As noted above there are exemptions to this obligation but it is understood that the Council are not relying on any such exemptions in respect of these transactions.

4.4 Equality and Health

4.4.1 There are no equality or health impacts resulting in the disposal of the surplus assets.

4.5 Consultees (Internal and External)

4.5.1 Legal, Assets, Planning, Environmental, Finance and Community Officers. Ward Councillors.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The proposals are aligned to the Corporate Plan and the priority to make best use of our assets and provide value for money. The recommendations in this report will deliver against the following strategic outcomes within the Corporate Plan, using public money effectively, empowering local people and keeping the town and people safe.

4.7 Environmental Implications (including climate change issues)

4.7.1 There are no environmental implications identified.

4.8 Other Implications

4.8.1 There are no other implications in this report.

5. Background Papers

5.1 Cabinet Report, 4th March 2020 – Disposal of Community Centre Shops.

- 5.2 Cabinet Report, 20th May 2020 – Community Asset Transfers
- 5.3 Attached annexes for reference and for individual recommendations moving forward. Listed annex 1-4.

6. Next Steps

- 6.1 Subject to the recommendations being approved officers would progress the transfers as documented in the recommendation above.

Kevin Langley
Economic, Growth and Regeneration Manager