



CABINET REPORT

Report Title	Community Asset Transfer of Cherry Orchard
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	22 January 2020
Key Decision:	No
Within Policy:	Yes
Policy Document:	No
Service Area:	Regeneration, Assets & Estates
Accountable Cabinet Member:	Cllr Tim Hadland, Regeneration and Enterprise
Ward(s)	

1. Purpose

- 2.1 This report proposes the main terms of a Community Asset Transfer (CAT) of Cherry Orchard Public Open Space to Hardingstone Parish Council and asks Cabinet to confirm support for the transfer using the process outlined in the report.

2. Recommendations

It is recommended that:

- 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 complete the transfer of Cherry Orchard to Hardingstone Parish Council on the following terms:-
- That there is a covenant placed on the land to ensure it continues to be used as public open space as the main permitted use for recreational use.
 - Following transfer Northampton Borough Council will continue to cut the grass through its contracted suppliers until 3 June 2028.

- The Parish Council will assume responsibility for grass cutting from 4th June 2028.
- The Parish Council will take on all other responsibilities for the land at completion of the community asset transfer.
- Northampton Borough Council to retain a right of pre-emption should the Parish no longer require the land for the permitted use.
- The transfer 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 no objections to the proposed disposal are received the matter will complete. If there are any objections received to the proposed disposal then the matter will be brought back to Cabinet for consideration.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The decision to transfer Cherry Orchard public open space to Hardingstone Parish Council was agreed by a Cabinet Member Decision in February 2014.
- 3.1.1 As this decision was taken some years ago, and there have been several reports on this subject since 2014, this report summarises the position, outlines the main terms and asks Cabinet to confirm approval for the transfer.
- 3.1.2 In November 2016 Cabinet agreed to the principal of Community Asset transfers on a long leasehold basis. However, Cabinet considered the matter again in July 2017, specifically Bellinge Public Open Space, and determined that it would be beneficial to all parties if the transfer was of a freehold nature with appropriate contractual restrictions registered on the title to ensure that the playing field continued to be used as public open space. The transfer completed, and the community continue to enjoy the land as public open space.
- 3.1.3 In October 2018 Cabinet considered asset transfers to Parish Councils. Cabinet reinforced their decision that the best mechanism for transfer was on a freehold basis, but also acknowledged that any commercial element needs to be considered and introduced the notion of overage as part of the transaction. Cabinet delegated powers to the Head of Economy, Assets and Culture, in consultation with the Cabinet Member for Regeneration and Enterprise, to advertise each open space in the local paper to comply with statutory legislation and to negotiate and agree in principle the terms in accordance with the parameters of the report, subject to the agreed terms of each proposed transfer/disposal being subsequently approved by Cabinet.

3.2 Information and Analysis

- 3.2.1 There has been progress in the transfers of public open spaces with many expressions of interest received from Parish Councils. Officers have

commenced reviewing these assets in conjunction with the Parish Councils and these will be brought to Cabinet for review and determination.

3.2.2 Negotiations on the transfer of Cherry Orchard to Hardington Parish have progressed to a stage where Cabinet are now asked to agree to the main terms so that the transfer can complete

3.2.3 Hardington Parish Council are an established Council who already have management experience of local facilities. They are a credible custodian of community land and have ambitions to tap in to the local community to facilitate recreational activities and events on the land, which in turn supports health and wellbeing.

3.2.4 Cherry Orchard land is used as public open space. The use remains regulated through the Town and Country Laws which are supported by existing public rights of way. The site is affected by the following planning policies and designations:

- West Northamptonshire Joint Core Strategy (adopted December 2014) – Policies BN1 (green infrastructure connections), BN5 (historic environment and landscape) and RC2 (community needs). In summary, the policies seek to protect sites affected by these designations and will support development only if certain criteria are met. Details of these policies can be found by accessing the following link and scrolling down to the first item:

<http://www.westnorthamptonshirejpu.org/connect.ti/website/view?objectId=5130832#5130832>

- Northampton Local Plan Part 2 (submission draft May 2019) – this site is allocated as amenity green space. It is also part of the green infrastructure network. The Local Plan seeks the maintenance and enhancement of open spaces and green infrastructure connections. Policy 23 (sustaining and enhancing existing, and supporting the creation of, Northampton's green infrastructure) applies. Further information on Policy 23 can be found here (second bullet point on the page):

<https://www.northampton.gov.uk/info/200205/planning-for-the-future/2426/northampton-local-plan-part-2-proposed-submission>

3.2.5 For added protection consideration has been given to appropriate contractual restrictions on the land, this included reviewing whether overage would be a suitable mechanism to restrict development.

3.2.6 Overage is a means by which owners can be encouraged to sell land to those who are better able to achieve an uplift in the value of the land sold and are better placed to obtain any planning permission which is needed to achieve that uplift. They can be protracted to negotiate and particularly complex the longer the period of that the overage is to cover. They should only be used to

promote development and where there is an expectation that the land may be brought forward for development.

3.2.7 It is therefore not appropriate to use overage in this situation.

3.2.8 Therefore, following careful consideration of the suitable mechanisms to safeguard the land as a community asset, and in consultation with Hardingstone Parish Council, the main terms of transfer proposed are below: -

- The land will be advertised in accordance with the Local Government Act 1972 to ensure members of the public have opportunity to comment and these comments are to be reviewed by the Economic Growth and Regeneration Manager, in consultation with the Borough Secretary, Chief Finance Officer and Cabinet Member for Regeneration and Enterprise.
- The land transfer will be on a freehold basis.
- Restrictions will be placed on the title to ensure the land remains used as public open space for community use.
- The transfer price will be for the sum of £100.
- Northampton Borough Council will retain a right of pre-emption to acquire the site back as the same price should the Parish Council no longer require the land to be held for public open space for community use.
- Northampton Borough Council is contracted to a supplier to cut the grass until June 2028 and this contractual obligation, to the standards defined in the contract, will be honoured in recognition of the social benefits that local ownership will create and the savings that will benefit the Borough Council in management, insurance and maintenance costs (see 4.2 below).

3.2 Issues

3.2.1 The land is intended to remain as public open space. The proposed transfer will contain the appropriate restrictions on the use of the land to ensure that it is not used for other purposes. The land will be transferred subject to any existing public rights of way and title covenants.

3.3 Choices (Options)

3.3.1 The Council could retain ownership of this area of public open space. This would not support the drive to transfer community assets in to local ownership. It would not enable the best local co-ordination or management of the land.

3.3.2 The Council could retain ownership of this area of public open space and grant a peppercorn long leasehold interest in the land to the Parish Council. This would not achieve any more control and would increase the amount of management costs for both Councils.

3.3.3 The recommended Option is to transfer the site based on the recommendation (2) above.

4. Implications (including financial implications)

4.1 Policy

This report sits within the policy determining community asset transfer to Parish Councils will be on a freehold basis see Cabinet Report 17 October 2019.

4.2 Resources and Risk

4.2.1 The land is held on the Council asset register with a value of £1, reflecting the use as public open space.

4.2.2 The transfer will include the benefit of a grass cutting contract until June 2028 which has been valued at £19,232.00. Should Northampton Borough Council retain the asset the cost of the grass in perpetuity has been valued £66,284.00. The transfer to the Hardingstone Parish Council will therefore result in a direct saving to the Council of £47,052.00 and will release Northampton Borough Council from other maintenance liabilities and insurance and management costs at the point of transfer.

4.2.3 Each Council will pay their own legal and estates costs.

4.2.4 Northampton Borough Council also charge special expenses for the maintenance of their parks and open spaces as part of the Council Tax, but this has been checked by finance and Cherry Orchard does not currently have an associated special expense.

4.3 Legal

4.3.1 The proposed disposal of public open space to Hardingstone Parish Council places a duty on the Council to comply with the provisions of Section 123(2A) of the Local Government Act 1972 which requires the Council prior to the disposal of the public open space land to advertise in a local newspaper for two consecutive weeks its intention to dispose of the public open space land and consider any objections to the proposed disposal that may be made to the Council.

4.4 Equality and Health

4.4 There are no equality issues identified. The land would have to remain accessible to the public and be available for all groups in the community to use.

4.5 Consultees (Internal and External)

4.5.1 Finance, Planning, Legal, Environmental Services, Estates Hardingstone Parish Councillors and Nene Valley Ward Councillors

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The proposals support the Corporate Plan, specifically our strategic priority to create Resilient Communities.

4.7 Environmental Implications (including climate change issues)

4.7.1 There are no environmental implications identified.

4.8 Other Implications

4.8 None

5. Background Papers

5.1 Cabinet Member Decision February 2014

5.2 Cabinet November 2016

5.3 Cabinet July 2017

5.4 Cabinet October 2018

6. Next Steps

6.1 Should Cabinet agree to the transfer, following the call-in period and should there be no issues, the transfer will complete.

6.2 Should Cabinet agree to the transfer, following advertisement of the transfer of public space following statutory guidelines, should there be no significant concerns, the transfer will complete

6.3 Should Cabinet agree to the transfer and subject to satisfactory completion of 6.1 and 6.2, the transfer will complete on the terms recommended above (2).

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