

Wards Affected:

Denbigh

RICKLEY PARK: TRANSFER OF THE FREEHOLD OWNERSHIP TO WEST BLETCHLEY COUNCIL

Decision Taker: Councillor McLean (Cabinet Member for Transport and Corporate Services)

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Executive Summary:

A delegated decision was made by a Cabinet member on 26 February 2013 to transfer the Rickley Park site to West Bletchley Council under the Community Asset Transfer (CAT) process. Since then the Council has worked with West Bletchley to agree the terms of Transfer. In January 2014 the disposal was advertised as required by section 123 Local Government Act 1972, as it appears to be "open space" as defined for the purposes of that section ("any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground.") Objections have been received.

Section 123 requires the Council to consider objections received. Objection to the proposed transfer have been received and are attached at **Annex B**.

1. Recommendation(s)

- 1.1 That, having considered the objections received, the freehold ownership of Rickley Park be transferred to West Bletchley Council, on the basis of the agreed Heads of Terms.

2. IssuesBackground

- 2.1 A delegated decision to transfer this asset was made by the responsible Cabinet member on 26 February 2013 to West Bletchley Council. The primary purpose of Rickley Park is to provide sports and leisure activities for the community (including football and has several football pitches).
- 2.2 The report on the 26 February makes reference to the Toolkit: 'Milton Keynes Council's Approach to Community Asset Transfer', (adopted by Cabinet in July 2012) was applied to this asset. Through the two-stage application process and subsequent assessment panels, West Bletchley Council demonstrated that it met the criteria in terms of being a locally run, locally controlled, non-profit distributing, inclusive, and democratic organisation. The subsequent business plan submission clearly demonstrated that as an organisation the Parish Council met the requirements of the CAT programme for freehold

transfer, and in the opinion of the relevant officers they have the required levels of experience of delivering services to the local community.

- 2.3 Existing tenant St Martins Bowls Club were advised accordingly about the proposed transfer with a view to transferring the land and buildings to West Bletchley Council, at which point the Parish Council will become the new landlord subject to the terms of the bowls club existing lease.
- 2.4 **Annex A** shows the proposed transfer area at Rickley Park. Edged green and numbered 1 is the land excluded from the transfer and the area hatched brown (numbered 2) are both pedestrian and vehicular rights for the benefit of the retained land. Rights of way would be granted over the Council's retained land from Rickley Lane.
- 2.5 The asset transfer will impose covenants or restrictions on use and if these are breached the Council could seek an injunction to prevent the unauthorised use, and can call for a payment of money based on any increase in value arising from the change of use. If claw-back is not paid, the Council will have a right to acquire the property for £1.
- 2.6 It is proposed to transfer the site, for the sum of £1, subject to restrictive covenants, claw back and a right of pre-emption to protect the Council's interests in ensuring that the asset continues to be used for community-oriented purposes. The Council is able to transfer the properties at less than best value through the use of the well-being powers contained in the General Disposal Consent, which allows for such a disposal where it benefits the economic, social or environmental wellbeing up to a maximum of £2 million. Rickley Park has been valued at less than £2 million.
- 2.7 Controls would be centred upon general property-related restrictions and claw back based upon facility use. There would be a restrictive covenant not to use Rickley Park for commercial purposes except ancillary to the overall current use of the facility, and that if the facility is left vacant for more than one year or sold or leased for more than 99 years to another organisation without the Council's permission, the Council may take it back. There will also be claw back provisions requiring the payment of money to the Council in the event of a change of use. If the clawback payment is not made to the Council the facilities could (at the Council's option) revert to Council ownership.
- 2.8 West Bletchley Council provided this statement from their business plan:

"WBC has been in contact with the bowls club management committee and representatives of each football club currently using the park, to obtain their agreement to the proposed transfer of ownership. It is the Council's intention that sport will continue to be played on the park and we would hope to introduce other sports facilities within the area, should a need be determined."

In their business plan, West Bletchley Council sets out the firm commitment going forwards as follows:

"West Bletchley Council realise Rickley Park is an important open space within West Bletchley and this Council is very keen to ensure that it remains both viable and available for use by local residents ."

2.9 Currently as things stand in January 2014 the disposal was advertised as required by section 123 Local Government Act 1972, as it appears to be “open space” as defined for the purposes of that section (“any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground.”) Section 123 requires the Council to consider objections received.

2.10 Public Engagement

Thorough public consultation on the Community Asset Transfer (CAT) Toolkit took place over a three-month period (31 January 2012 – 24 April 2012). Stakeholders had the opportunity to attend numerous events that were held across Milton Keynes and a public engagement event was held at Warwick Road Activity Centre for Rickley Park on 11 September 2012 clarifying the specific aspects related to this proposed asset transfer.

The Council try to publicise as widely as possible via a number of different means. These consist of: Press release and/or public notice printed in local newspapers, (1 August 2012) Posters distributed to key sites across Milton Keynes, updates on CAT E-bulletin sent to a distribution list which contains more than 400 recipients, including all Parish Councils and all Ward members.

Since the disposal was advertised as ‘open space’ a number of comments were received from the general public and these have been captured in **Annex B**.

3. Options

3.1 The main option is to continue to proceed with the freehold transfer of Rickley Park to West Bletchley Council.

3.2 The alternative option would be for the Council to continue taking full responsibility for Rickley Park its liabilities and relevant investment in the future. However, this does not recognise the value of ‘Localism’, enabling local community partners to take more responsibility for local assets and to empower these new arrangements with those organisations that may be best-placed to achieve this.

4. Implications

4.1 Policy

The Council’s approach to Community Asset Transfer was formally adopted on 31 July 2012 following a delegated decision.

4.2 Resources and Risk

With the Freehold transfer taking place the Council’s Landlord responsibilities would fall away resulting in a saving of £23,535 in revenue costs in 2013/14 as highlighted in the Council’s Medium Term Financial Plan.

West Bletchley Council would take full responsibility for both of the assets, their liabilities and relevant capital investment needs into the future.

Y	Capital	Y	Revenue	N	Accommodation
N	IT	Y	Medium Term Plan	Y	Asset Management

4.3 Carbon and Energy Management

Maintaining the resources at Rickley Park would provide a service for a wide variety of community groups (particularly young people) locally which they would otherwise have to travel further afield to achieve.

4.4 Legal

Throughout, the Council's Legal team have been closely monitoring the impact of any legislation that might affect the progress of CAT and will continue to do so in the future.

Transfers at undervalue would potentially contravene State Aid regulations, which means they would be unlawful. Recent Counsel advice suggests this transfer does not contravene State aid.

Under S123 of the Local Government Act 1972, property disposals are to occur on the basis of best value being obtained. The Local Government Act General Disposal Consent 2003 provides a relaxation to this requirement up to a maximum value of £2m where the transfer will further the wellbeing of the residents of Milton Keynes

4.4 Other Implications

As an integral part of this transfer arrangement an Equalities Impact Assessment has been completed. (Available on request)

The programme was promoted on the Council's web link applications and the two stage application process was made available on-line.

Thorough public consultation on the Community Asset Transfer (CAT) Toolkit took place over a three-month period (31 January 2012 – 24 April 2012). Stakeholders had the opportunity to attend numerous events that were held across Milton Keynes and a public engagement event was held at Warwick Road Activity Centre clarifying the specific aspects related to this proposed asset transfer.

The local Ward Members as key stakeholders are aware of this development and have been involved in the consultation.

Y	Equalities/Diversity	N	Sustainability	N	Human Rights
Y	E-Government	Y	Stakeholders	N	Crime and Disorder

Background Papers: Delegated Decision 26 February 2013 Rickley Park: Transfer of Freehold ownership To West Bletchley Council.
Milton Keynes Community Asset Transfer (CAT) Toolkit

Annex A

Plan of Land to transfer

Annex B:

Public Feedback