

Appendices: 1



**NORTHAMPTON**  
BOROUGH COUNCIL

## CABINET REPORT

<b>Report Title</b>	<b>Proposed Transfer of Public Open Space land at Bellinge, Northampton</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	19 <sup>th</sup> July 2017
<b>Key Decision:</b>	NO
<b>Within Policy:</b>	YES
<b>Policy Document:</b>	NO
<b>Directorate:</b>	Regeneration, Enterprise and Planning
<b>Accountable Cabinet Member:</b>	Cllr. Tim Hadland
<b>Ward(s)</b>	Billing Ward

### 1. Purpose

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- 1.1 The purpose of the report is to seek authority to the transfer the freehold interest in land owned by the Council, which is designated as Public Open Space, to Billing Parish Council.
- 1.2 Authority is also sought to advertise the disposal of public open space in accordance with the requirements of section 123 (2A) of the Local Government Act 1972, (as amended).

### 2. Recommendations

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That Cabinet:

- 2.1 Approve "in principle" the transfer, at nil premium, of the freehold interest in the land having an area of approximately 5,106 square metres shown within the area edged red on the Plan at Appendix 1 (known as Bellinge Public Open Space) for its continued use as public open space for recreational activities.
- 2.2 Authorise the advertisement of the proposed disposal of the public open space in accordance with the requirements of Section 123 (2A) of the Local Government

Act 1972 (as amended) and for any representations to be reported back to Cabinet for consideration.

- 2.3 Authorise the Chief Executive, in consultation with the Cabinet Member for Regeneration, Enterprise and Planning to agree the terms of the transfer, including the imposition of a restrictive user covenant, on a freehold basis.

### **3. Issues and Choices**

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#### **3.1 Report Background**

- 3.1.1 In November 2016, Cabinet authorised Officers to commence negotiations with Parish Councils' to transfer Council Assets, primarily areas of land and open space, in order to facilitate their local management. Cabinet resolved that the disposal should be done as a way of a long lease with flexible provisions for termination benefitting both parties.
- 3.1.2 The Council owns the freehold of land known as Bellinge Field identified edged red on the Plan at Appendix 1. The land is designated as public open space and is accessed by a footpath from Manor Farm Road to the north and Kingsthorpe Walk, Billingmead Walk and Campion Walk leading from the estate roads to the south.
- 3.1.3 The Council was approached by Billing Parish Council about the possible transfer of this parcel of land, to use for recreational purposes only. Records held by the Council indicate that a transfer on a freehold basis was previously considered some years ago but for reasons which can no longer be adduced, this was not progressed to completion. In the light of this the Executive Programme Board has asked that, as an exception to policy, and the fact that this predated the approval of the policy, that the transfer be effected on a freehold basis. Apart from this exception the approved policy will remain intact.
- 3.1.4 Billing Parish Council is a long established organisation which discharges the management and maintenance of facilities within their designated boundary.
- 3.1.4 The land proposed to be transferred would remain freely accessible and be held as public open space by the Parish Council.
- 3.1.6 The land is currently maintained and managed by the Council. This liability would transfer to Billing Parish Council upon completion of the transfer.

#### **3.2 Issues**

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

#### **3.3 Choices (Options)**

- 3.3.1 The Council could choose to transfer the leasehold of the land to the Parish Council at a peppercorn rent, in accordance with the policy established by Cabinet November 2016. A lease would 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. A lease could be for a term of up to 125 years.
- 3.3.2 The Council could retain ownership of this area of public open space. This would not enable the best local co-ordination or management of the land, given that Billing Parish Council has aspirations for the management and control of this land.
- 3.3.3 The Council could choose to transfer the freehold of this land to Billing Parish Council as provided for under the Localism Act 2011 that encourages Local Authorities to transfer local public functions to permitted authorities. This would, however, not accord with the policy adopted by Cabinet in November 2016. This is what the Executive Programme Board have requested.

## **4. Implications (including financial implications)**

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### **4.1 Policy**

- 4.1.1 This report does not set Policy.

### **4.2 Resources and Risk**

- 4.2.1 If the land is restricted to amenity use in perpetuity then a freehold transfer would be broadly cost neutral in revenue terms because the loss of a small potential income would be offset by a saving arising from not having to undertake maintenance.
- 4.2.2 The land has been valued at £25,000 on the basis of a freehold disposal with vacant possession, by an external valuer. The valuer also opined that the land may potentially be able to attain a higher value in the future were it to be developed as part of a larger housing scheme. For the avoidance of doubt, at the present time no such scheme exists.
- 4.2.3 As Cabinet will be aware, the Council can dispose of land at less than best consideration providing that it is clear on the extent of undervalue and that it is in the interests of promoting environmental, economic or social well-being. In this case the transfer would promote social and environmental well-being in the Parish of Billing.
- 4.2.4 For completeness and having regard to its fiduciary duty, Cabinet should note that if the land was transferred on a freehold basis at a nil valuation to the Parish Council, with its use regulated by a restrictive covenant, any potential capital receipt would be foregone.

## **4.3 Legal**

- 4.3.1 If Cabinet decided to dispose of the land on a freehold basis, a restrictive covenant would be applied to ensure that it could only be used as public open space. This would provide some protection in terms of any future escalation of land value through alternative uses for the public of Northampton and assist in meeting the Boroughs fiduciary duties to the tax payer.
- 4.3.2 Under Section 123 (2A) of the Local Government Act 1972 any disposal of Public Open Space will need to be advertised. Any representations received from this advertisement will need to be considered. The Council's lawyers would draft any necessary Notices required in compliance with s123 LGA 1972.

## **4.4 Equality and Health**

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

## **4.5 Consultees (Internal and External)**

- 4.5.1 Parks Services, Finance legal and Governance have been consulted in the production 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**

- 5.7.1 None.

## **5. Background Papers**

None.

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