

Report subject	<b>Potential Transfer of Play sites and Highcliffe Recreation Ground</b>
Meeting date	26 May 2021
Status	Public Report
Executive summary	<p>Christchurch Borough Council (CBC) proposed that the new town and parish councils assume responsibility for play facilities, subject to agreement and formal approval by BCP Council. Highcliffe &amp; Walkford Parish Council (HWPC) wish to take on this responsibility for Bluebell Close, Mudeford Wood and Highcliffe Recreation Ground Play Areas as well as the remainder of Highcliffe Recreation Ground. BCP Council formally advertised the proposed disposal of these open spaces and no objections were received. HWPC has agreed Heads of Terms to transfer the freehold ownership of these sites and arrangements for shared grounds maintenance and play inspection liabilities to ensure seamless use of these public open spaces.</p>
Recommendations	<p><b>It is RECOMMENDED that:</b></p> <ul style="list-style-type: none"> <li><b>(a) After consideration of representations and objections from Public Consultation, the results of the Disposal of Public Open Space Procedure are noted</b></li> <li><b>(b) The proposal to transfer the freehold ownership of assets to Highcliffe &amp; Walkford Parish Council (HWPC) under the terms, conditions and legal arrangements reported is agreed</b></li> <li><b>(c) That the proposal to enter into a contract for Play and Grounds Maintenance for 5 years with HWPC and the legal and financial responsibilities resting with BCP Council for two years are agreed.</b></li> <li><b>(d) That under the provisions of the Local Government Act 1972 general disposal consent (England) 2003, it is agreed to transfer these assets at below the 'market' value.</b></li> <li><b>(e) The transfer of the obligations arising from the Fields in Trust designation for Highcliffe Recreation Ground to Highcliffe and Walkford Parish Council is agreed.</b></li> </ul>
Reason for recommendations	<p>HWPC is the Local Authority (Tier 3) and is best able to maintain and improve the play and recreation offer within their Parish. Local decision making will be in line with its strategic plans for the Parish, implemented using funding raised via its precept. Transfer will also</p>

	<p>enable HWPC to implement its proposals for a sensory garden within the Highcliffe Recreation Ground.</p> <p>The Heads of Terms secures future use of these areas for recreation and the transfers will enable HWPC to invest in the improvement of these areas.</p> <p>BCP Council is to provide grounds maintenance and play inspection services for an agreed period to ensure smooth hand over of the facilities and seamless delivery of services based on the service standards previously delivered.</p>
Portfolio Holder(s):	<p>Councillor Drew Mellor (<a href="#">Leader of the Council and Portfolio Holder for Finance and Transformation</a>)</p> <p>Councillor Mark Anderson (<a href="#">Portfolio Holder for Environment, Cleansing and Waste</a>)</p>
Corporate Director	Kate Ryan
Report Authors	Michael Rowland (Strategic Lead for Greenspace & Conservation; Alan Ottaway (Landscape & Countryside Team Leader)
Wards	Highcliffe & Walkford;
Classification	For Decision

## Background

1. Christchurch Borough Council's (CBC) Full Council established a Community Governance Review Task and Finish Group in 2018. The Task and Finish Group considered the creation of new Town and Parish Councils and the assets which were best to be managed locally by them once the Borough Council was dissolved.
2. Play areas and other assets were considered for transfer but could not be finalised because of uncompleted contracted work within Christchurch Play Legacy Project. Play areas were therefore not included in the sites to transfer upon the establishment of HWPC, although the Task and Finish Group wished that to be taken forward by the new Council.
3. After the establishment of HWPC any proposed transfers would need to follow the normal conveyancing process and terms agreed. There would also be the legal requirement to advertise any disposal and consider any objections made before any decision to dispose could be made (Background Paper - Extract from CBC Full Council Report, 11<sup>th</sup> December 2018 for sites and functions recommended for transfer)
4. Corporate Property Group (CPG) considered proposals to transfer assets to Highcliffe & Walkford Parish Council at its meeting on 29<sup>th</sup> October 2020 and its recommendations were agreed. This report provides the results of the Disposal of Public Open Spaces procedure. It also provided the terms and conditions of transfer for consideration.

## **Potential Transfer of Play sites and Highcliffe Recreation Ground by Disposal of Public Open Space procedure.**

5. In accordance with statutory requirements Public Notices were published in the Echo on 21<sup>st</sup> and 28<sup>th</sup> January 2021, with the closing date for objections and representations on 19<sup>th</sup> February 2021.
6. There were no results to report on the Disposal of Public Open Space procedure and therefore the disposal and transfer of assets can go ahead should the terms and conditions presented and financial and legal considerations be acceptable. The proposed Heads of Terms for transfer are provided in **Appendix 1**.
7. The HWPC proposal for Transfer of Highcliffe Recreation Ground is provided in **Appendix 2**. Further negotiation has taken place on these proposals and where it is proposed these terms are agreed, they are incorporated within the Heads of Terms for transfer.
8. Assessment of the market sale value of the assets considered for this transfer has been carried out and the value of other benefits being provided as part of the terms for the transfer has been totalled, in order to establish the overall undervalue if this transfer proceeds. The legal position with regard to the transfer of assets at undervalue by the Local Authority has been checked and advice provided (**See Legal Advice below**)

## **Options Appraisal**

9. CPG recommended the proposal to transfer the two play areas at Bluebell Close and Mudeford Wood Community Centre. It included Highcliffe Recreation Ground as requested by HWPC in the proposed transfer.
10. BCP officers have considered the terms for transfer that are outlined in the Heads of Terms (**Appendix 1**) and the Proposal for Transfer of Highcliffe Recreation Ground submitted by HWPC (**Appendix 2**).
11. The transferred assets have a book value of £178,500 but are to be transferred for £1 each. In accordance with legal requirements they must be assessed at open market value, but their current usage is protected so the legal and financial obligations of the transfer make this asset value un-realizable.
12. HWPC would become responsible for all the proposed sites, Highcliffe Recreation Ground pavilion with its adjoining Public Toilets and any major play or other infrastructure on transfer. All proposals for future capital expenditure will therefore need to be met by HWPC
13. The HWPC proposals include requested one off payments by BCP. Details are in **Appendix 2**.
14. BCP currently has an obligation to keep Highcliffe Recreation Ground and the two play sites in good condition for public use. Revenue budget is used for play, grounds maintenance, cleaning and building repairs. On transfer this will change with the overarching responsibility resting with HWPC. Then resources can be invested back into BCP Parks services.
15. HWPC currently pays BCP for routine grounds maintenance on former council sites transferred on 1<sup>st</sup> April 2019. This is provided by contract under a Service Level Agreement. BCP will add maintenance of the Recreation Ground and routine Play inspections / minor play maintenance on the play sites under a separate section.

Initially it will also include provisions for routine pavilion and toilet cleaning and repairs. (**Appendices 2 and 3**).

16. To ensure continuity of service and confidence from the community this arrangement would last 5 years subject to satisfactory performance or implementation of a break clause. This would be agreed by contract, with Yr1 –Yr2 at no cost to HWPC so they can assess the likely ongoing maintenance costs and precept required. Expenditure for Yrs 3-5 will be recharged to HWPC by BCP.
17. The maintenance contract could be renewed by mutual agreement.
18. HWPC has plans for wider scale improvements that are considered best accommodated by the transfer of the whole Recreation Ground.
19. The value of BCP's initial support is tapered and comes from existing budgets. Details of financial impacts from these proposals is set out in the section below.

### **Summary of financial implications**

20. Open Market valuation of these sites undertaken by the Estates Team provides an overall asset valuation of £178,500. The Heads of Terms proposes transferring these sites for the sum of £1 each, with provision for an overage payment to BCP Council to reflect the increased value of these sites should they be developed for any other purpose within a period of 80 years from the date of transfer.
21. In the play project approved by Christchurch Borough Council, a budget allocation was made for future maintenance of play areas should they be transferred. This was £1000 per year for 5 years per site. £15,000 for the short term maintenance of transferred play areas remains available in Christchurch Play Legacy capital budget.
22. In recognition of the long-term savings to be made by BCP Council, HWPC have asked for the non-recurring sum of £10,000. This enables them to establish a sinking fund for future maintenance of Highcliffe Recreation Ground. This is unbudgeted but could be realised from future savings.
23. CPG allowed a non-recurring fund of £3,000, necessary for estates and legal costs incurred by BCP Council in the transfer of these assets. Part of this funding has already been used to accurately identify the assets for the Disposal of Public Open Space notices. It will also be used for payment of the Fields in Trust's costs required to transfer BCP Council's obligations for Highcliffe Recreation Ground to HWPC.
24. If none of the sites are transferred BCP will remain liable for all expenditure to maintain these public assets. It is estimated that the net revenue cost to BCP is £30,000 - £35,000 per year. The revenue budget for play park maintenance is under significant pressure; under these proposals BCP council will continue to provide maintenance for two years, after which the funds used for this land/building applied across the remaining play park assets. As well as play and parks maintenance the present liability includes a significant portion for contracted cleaning and building maintenance of the Pavilion and Public Conveniences.
25. The transfer of these sites will be at below best value. The total amount of the undervalue will be £265,100. This is based on site market value, sums to be paid to HWPC and value of maintenance to be carried out by BCP Council for the first two years after transfer. The realisable undervalue is £87,000 so the table below shows the financial affects without the unrealisable land value of £178,500.

	2021/22	2022/23	2023/24
	£k	£k	£k
Undervalue	87	42	12
One-off fund	(15)		
Revenue budget	(30)	(30)	(30)
Balance of undervalue	<b>42</b>	<b>12</b>	<b>(18)</b>

26. In summary there will be no additional cost to the council as a result of these proposals. The transfers of one-off items ear-marked for this purpose are already set-aside, CPG have provided the one-off funding necessary for the estates and legal costs, and from year three following the transfer the revenue budget will be applied across the remaining council play park assets. There will be a longer-term financial impact with regards capital spend on these assets, which will be the responsibility of HWPC rather than the council.

### Summary of legal implications

27. The Council has the legal power to dispose of its land as it thinks fit pursuant to S.123 of the Local Government Act 1972, subject to the requirement to obtain best value (unless consent is given by the Secretary of State). There is an added requirement when disposing of land consisting or forming part of an open space to advertise the proposal in two consecutive weeks in a local newspaper and consider any objections made. This procedure has been undertaken and no objections were received.
28. A general disposal consent pursuant to the Local Government Act 1972 was issued in 2003 to permit the disposal of sites at less than best consideration in certain circumstances, provided the undervalue is below £2 million. This general consent reminds councils that they should not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action. The general consent means that specific Secretary of State consent is not required for the disposal of any interest in land at below market value, which a council considers will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area. The grounds to support the achievement of these objectives are set out in the reasons for the recommendation above.
29. For the purposes of the general consent, BCP Council needs to be aware of the likely amount of the undervalue. A valuation of the market value of the sites to be transferred has been undertaken and the value of the additional benefits to be provided by BCP Council has been assessed to calculate the final undervalue amount. This is below £2 million and therefore within the scope of the general consent.
30. By a Deed of Dedication dated 03 April 2012, Highcliffe Recreation Ground was dedicated as a Queen Elizabeth II Field. This means that the consent of the Fields in Trust is required in order to dispose of this land. An application is being made to the Fields in Trust and they have provisionally indicated that consent would be forthcoming, provided HWPC enter into a similar Deed of Dedication with them.

### **Summary of human resources implications**

31. There would be no immediate change in resources required or staffing committed to undertake maintenance. There is no potential transfer of a service or contract where TUPE may apply as the nature of work is spread across a wide range of service areas and personnel.
32. There is no requirement for Full Equality Impact Assessment, as service standards remain unaffected by the proposals.
33. Policy decisions on services and standards will become a matter for HWPC upon transfer. Equalities Impact Assessments would be required by HWPC should changes be considered by them in future.

### **Summary of sustainability impact**

34. The DIA has been undertaken and the Sustainability rating is Low.

### **Summary of public health implications**

35. There are no foreseeable health and wellbeing issues arising, although local decision making may allow HWPC to tailor facilities and services more accurately in future.

### **Summary of equality implications**

36. There are no equalities issues arising from this decision. The duty for land management will sit with HWPC. HWPC are another Local Authority to which the public sector equality duty under the Equality Act 2010 applies. The new owners will be required to meet the Local Authority responsibilities for equalities via [Equality Framework For Local Government 2020](#)

### **Summary of risk assessment**

37. A Decision Risk Assessment has been undertaken and the Risk level was rated Low

### **Background papers**

Extract from CBC Full Council Report, 11<sup>th</sup> December 2018 for sites and functions recommended for transfer. DIA, EIA and Risk report.

### **Appendices**

Appendix 1 – Proposed Heads of Terms for transfer.

Appendix 2 – Proposal for Transfer of Highcliffe Recreation Ground submitted by HWPC

Appendix 3 – Schedule of costs: Maintenance of Highcliffe Recreation Ground, Bluebell Close and Mudeford Wood play areas.