

BCP Council Cabinet meeting: 26th May 2021
 Potential Transfer of Play sites and Highcliffe Recreation Ground
 Appendix 1 - Proposed Heads of Terms for transfer.

CONFIDENTIAL

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PROPERTY SERVICES

To: Legal Services (FAO: Helen Garrett, Team Leader) Property.Legal@bcpcouncil.gov.uk
 Instructions to Solicitors File (electronic copy)
 File Copy (signed original)

REPORT OF THE CORPORATE PROPERTY OFFICER ON TERMS AGREED UNDER DELEGATED POWERS FOR THE TRANSFER OF PROPERTY BY ARRANGEMENT.

Proposed Heads of Terms - Issue (Rev.3) - Date of Issue: 10/03/2021

1.	Description of properties, including site area, plan no. title nos. and any parking included in the demise:	1. Mudeford Wood Play Area. Title No. DT66138 2. Highcliffe Recreation Ground including Play Areas (I.E. Highcliffe Toddler & Highcliffe High 5 Play Areas). Title No. DT372924 3. Bluebell Close Play Area. Title No. DT182788 Refer attached Plans: - APPENDIX 1 * + other attachments.
2.	Name and Address of Transferor:	Bournemouth, Christchurch, and Poole Council (BCP Council). Town Hall, Bourne Avenue, Bournemouth BH2 6DY
3.	Transferor's Solicitors:	Legal Services, Bournemouth, Christchurch, and Poole Council, Town Hall, Bourne Avenue, Bournemouth BH2 6DY
4.	Name and Address of Transferee:	Highcliffe & Walkford Parish Council (c/o Trish Jamieson - Town Clerk), Old School House, 254 Lymington Road, Highcliffe Dorset BH23 5ET
5.	Transferee's Solicitors:	Please issue to Highcliffe & Walkford Parish Council (HWPC) in the first instance.
6.	Title Information:	Title Information - BCP Council will transfer the title it has to the assets and will not be required to give a better title or provide any title indemnity insurance and all existing maintenance responsibilities will pass to HWPC. HWPC will be responsible for making its own arrangements for its future maintenance responsibilities, which may include entering into an arrangement with BCP Council.
7.	Proposed Heads of Terms:	
8.	Target Transfer Date	1 st June 2021 - or as soon as possible thereafter.
	a. Transfer	No sites which consist of or form part of an open space are disposed of until the proposed disposals have been advertised in accordance with S.123 (2A) of the Local Government Act 1972. This has now been undertaken and no formal objections have been received.
	b. Price (consideration)	One (1) Pound per site.
	c. Overage	The sites are transferred on the basis that should there be any change of use or planning approval for any development or change of use be granted or obtained at

		any time within a period of 80 years after completion of the transfer for any development or change of use (including implementation of permitted development rights), BCP Council will be entitled to 50% (half) of any uplift in the value of the land. The payment of any sums due would be on the implementation of any planning approval or change of use or any disposal whichever occurred first.
9.	Site Plans	Site plans with boundary details where known. Refer Appendix 1 below.
10.	Rights & Covenants	HWPC will take each of the assets subject to all existing rights and covenants which affect it and will be required to indemnify BCP Council against any breach of them.
11.	Fields in Trust Status of Highcliffe Recreation Ground (QE II Field in Trust)	<p>The consent of Fields in Trust is required to the Transfer of Highcliffe Recreation Ground. They have indicated that consent should be forthcoming provided HWPC enter into a similar deed of dedication at the same time as taking ownership. A Field Change Request is being submitted to commence the formal process. This then goes to the Fields in Trust Planning and Land Committee. When the forms are submitted, Fields in Trust will require an undertaking that all costs will be paid to Fields in Trust, regardless of the outcome. It is anticipated that costs will be in the region of £450.</p> <p>They have also invited HWPC to get in touch with them to discuss any queries on the deed etc.</p>
12.	New Covenants	HWPC will be required to enter into covenants to use the asset in accordance with its existing use and further development will be prohibited unless in accordance with that use. In addition, other standard covenants will be imposed, including a no nuisance covenant, boundary covenants and other maintenance covenants where appropriate. HWPC will enter into covenants to continue to use the Highcliffe Recreation Ground as a Recreation Ground and the play areas as open space areas for the purpose of public recreation. HWPC will not close the Highcliffe Recreation Ground toilets without first undertaking public consultation.
13.	Additional Rights, Exceptions & Reservations.	As appropriate to the asset. For example, it may be necessary to grant a right of way to the asset over other land owned by BCP Council or to grant or reserve the right for services or the right of entry to maintain the asset or BCP's Council's retained land. There is access from the public highway at Highcliffe Recreation Ground and at Bluebell Close. A right of way will be granted to undertake maintenance/ refurbishment at the play area at Mudeford Wood, but vehicle access over Mudeford Wood from the main public access to the play area should be kept to the minimum required. A right will also be granted for one maintenance vehicle to access and park within the Mudeford Wood Car Park whilst work is being undertaken to the play area.
14.	Other Provisions	As appropriate, including standard clauses for non-fettering of BCP Council's rights, duties and obligations in its functions as a local authority despite the transfer; that for the purposes of Section 6(2) (a) of The Law of Property (Miscellaneous Provisions) Act 1994 all matters now recorded in registers open to public inspection are to be considered within the actual knowledge of HWPC and where BCP Council retains land, the reservation of light and

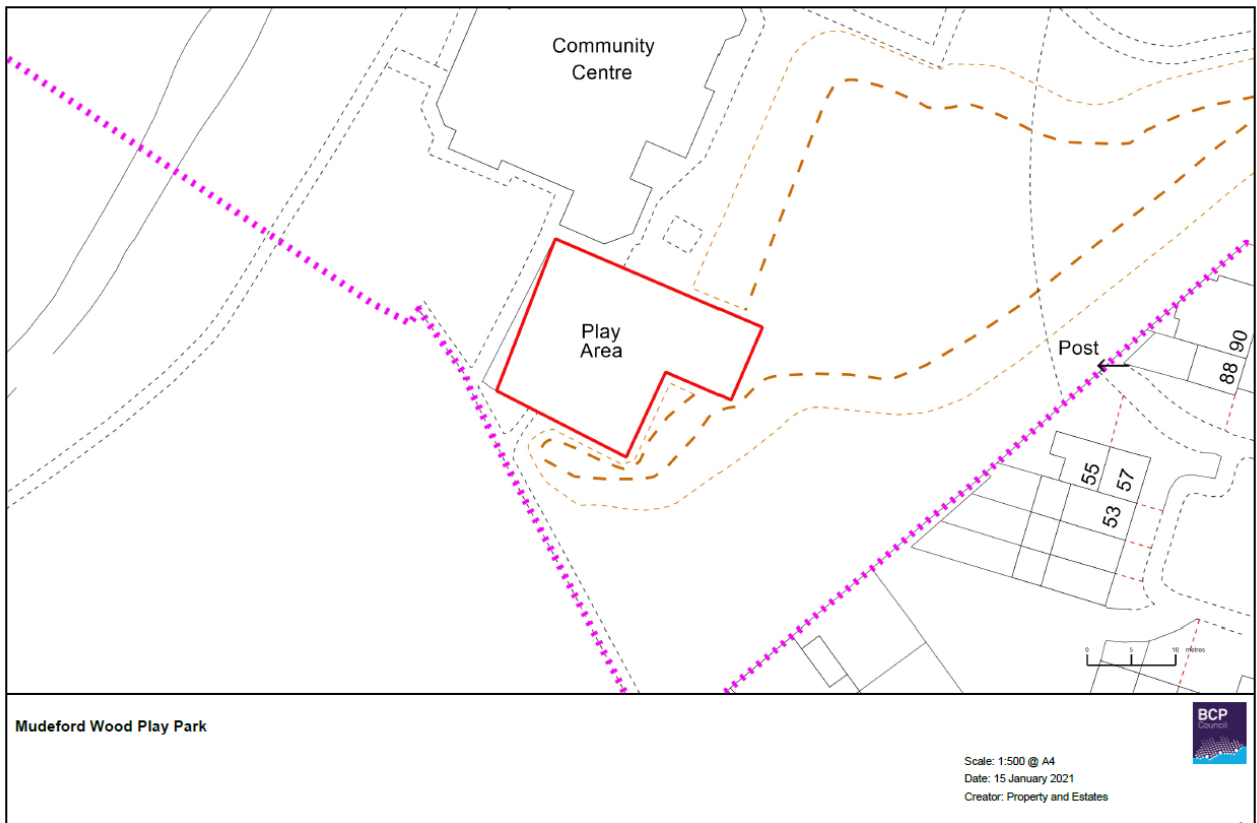
		air.
15.	Existing Leases	Where the asset is leased to a third party, HWPC becomes the landlord in place of BCP Council and responsible for the landlord's covenants/maintenance obligations as set out in the lease. Where appropriate, the necessary releases will be given to BCP Council. HWPC will also take subject to any existing hiring out agreements (including for any events which have been booked prior to the date of transfer).
16.	Terms	All terms will be agreed subject to contract.
17.	Disposal	No disposal of land consisting or forming part of an open space can be made unless the statutory requirements of S.123 (2A) of the Local Government Act 1972 have been met: - this requirement has now been met.
18.	Special Maintenance Obligations (if any)	If BCP Council are granting access over BCP land then provision should be made to recharge for access maintenance 'according to user' - it may be rarely used but this is a permanent change and the facility for recharging should apply.
19.	Condition of the Assets on Transfer	As at the date of Transfer and BCP Council gives no warranty as to the condition of the assets.
20.	Costs:	VAT, HWPC's legal and other costs, Land Registry Fees, Stamp Duty and all other taxes are to be borne by HWPC. That means HWPC pay their own costs incurred in connection with the Transfer.
21.	Insurance, Public Liability & Negligence Claims etc.	HWPC as owner of these assets and therefore the person in control and responsible for these liabilities.
22.	Transfer of Maintenance Fund for Play Areas	On completion of the Transfer of each of the three sites, BCP Council will pay the sum of £5,000 to HWPC, being £1,000 per annum for the annual maintenance of the play equipment, subject to the play equipment being retained for a minimum of 5 years from the date of each Transfer. The maximum payment will therefore be £15,000.
23.	Payment to HWPC for Highcliffe Recreation Ground	In recognition of the savings to BCP Council in maintenance costs for Highcliffe Recreation Ground (including the Pavilion and Toilets) and to assist HWPC in taking on these maintenance responsibilities, on completion of the Transfer of the Highcliffe, BCP Council will pay the sum of £10,000 to HWPC. This is in accordance with the request from HWPC as set out in their proposed terms for the transfer of the remainder of the Highcliffe Recreation Ground in addition to the play areas.
24.	Notes and Other Information/for Discussion	
	a. Proposed HWPC SLA	BCP Council and HWPC will enter into an agreement under which BCP Council will undertake grounds maintenance works to Highcliffe Recreation Ground and the play areas and inspection of the play equipment for a period of 5 years from the date of the Transfer. No fee will be charged for the first two years and thereafter, HWPC will reimburse the Council for the cost of the work undertaken.
	b. Maintenance Works to be carried out	As set out in the Schedule of maintenance costs
	c. Break Clause	Break clause. Either party may give not less than six months' notice, to take effect on 31 March in any year after the end of the first two years of the term of the

Agreement. This shall only apply to the grounds maintenance elements of work within the Agreement, with corresponding reduction in the costs recharged HWPC. This shall not apply to the inspection of the play equipment, which will continue for the full five years.

APPENDIX 1

Site Plans *

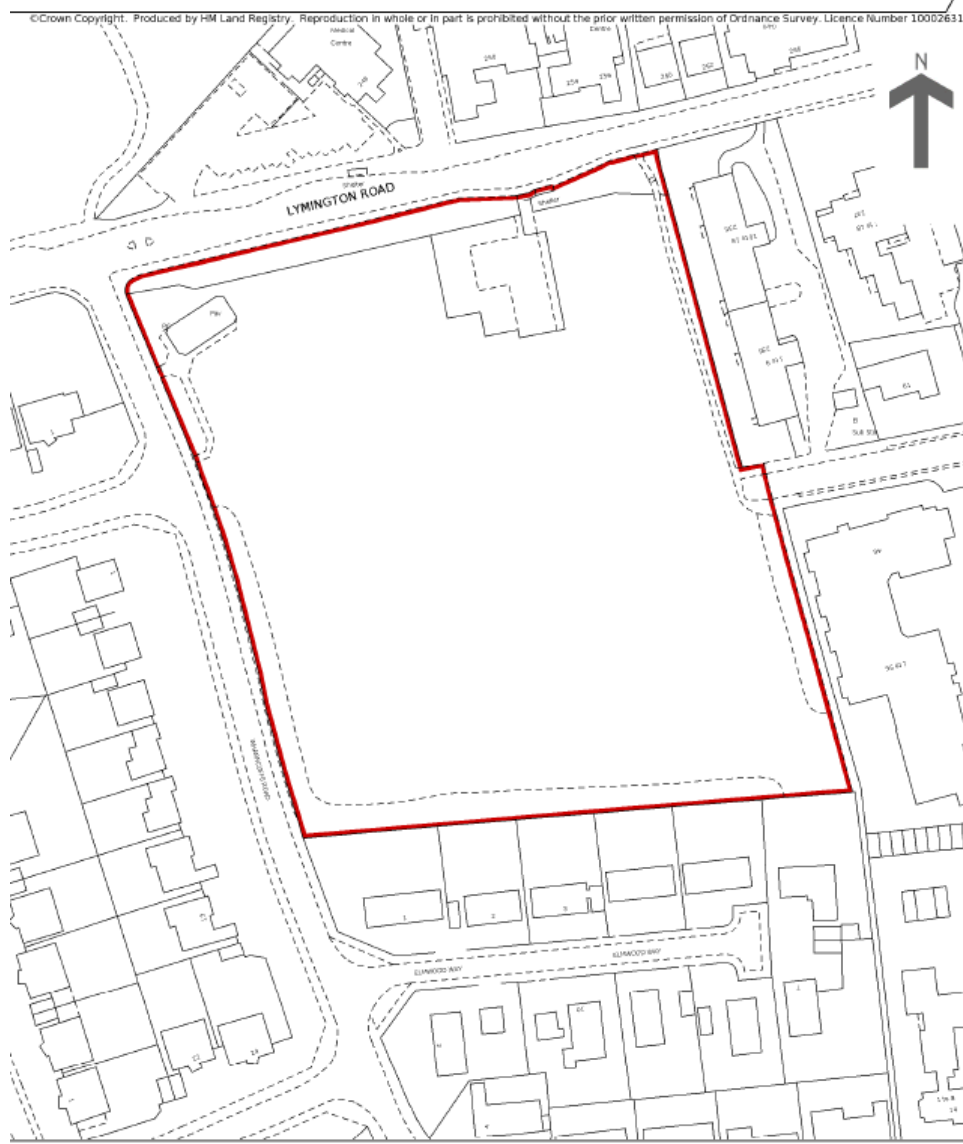
1. Mudeford Wood Play Area



2. Highcliffe Recreation Ground Play Areas (Highcliffe Toddler & Highcliffe High 5 Play Areas)

HM Land Registry
Official copy of
title plan

Title number **DT372924**
Ordnance Survey map reference **SZ2093SE**
Scale **1:1250**
Administrative area **Bournemouth,
Christchurch and Poole**



3. Bluebell Close Play Area

