

Report subject	Transfer of green space assets to Christchurch Town Council
Meeting date	8 March 2023
Status	Public Report
Executive summary	<p>Prior to the creation of BCP Council, legacy Christchurch Borough Council (CBC) proposed that the then new Christchurch Town Council assume responsibility for several of its open space assets and play facilities, subject to agreement and formal approval by both the incoming BCP Council and Christchurch Town Council (CTC).</p> <p>CTC have already become responsible for some former CBC assets on the creation of the Town Council from 1st April 2019. Because of planned refurbishment works to play facilities, any potential transfer of these sites was delayed until the works were completed and terms agreed between BCP Council and CTC.</p> <p>In November 2022 CTC formally decided to proceed with the transfer of the following three sites:</p> <ul style="list-style-type: none"> • Barrack Road Recreation Ground (including play and fitness areas), • Two Riversmeet Skate Park • Waterman’s Skate Park <p>Formal approval is now required to the agreed terms detailing the financial arrangements and responsibility for the spaces in question.</p>
Recommendations	<p>It is RECOMMENDED that Cabinet:</p> <p>(a) Considers the outcome of the Public Consultation, set out in paragraph 7 & 8 of this report and notes the requirements of the Disposal of Public Open Space Procedure in paragraph 10.</p> <p>(b)Agrees to transfer to Christchurch Town Council the freehold ownership of assets:</p> <ul style="list-style-type: none"> • Barrack Road Recreation Ground, • Two Riversmeet Skate Park • Waterman’s Skate Park <p>under the terms, conditions and legal arrangements set out.</p>

	<p>(c) Agrees to transfer these assets at below the ‘market’ value, under the provisions of the Local Government Act 1972 general disposal consent (England) 2003,</p> <p>(d) Agrees the transfer of the obligations arising from the Fields in Trust designation for Waterman’s Park Skate Park to Christchurch Town Council.</p>
Reason for recommendations	<p>CTC is the Tier 3 Local Authority. It will be able to maintain and improve play and recreation matched to local needs and take local decisions based on its strategic plans. Implementation of improvements will use funding raised via its precept. Transfer of these sites will also enable CTC to implement any new proposals identified in its developing Neighbourhood Plan.</p> <p>The Heads of Terms secures future use of these areas for recreation and the transfers will enable CTC to invest in improvements to these facilities.</p> <p>BCP Council will provide grounds maintenance and play inspection services on a rechargeable basis. This will be 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>Cllr Drew Mellor (Leader- Responsible for Finance, Transformation of all council services);</p> <p>Cllr Mark Anderson (Portfolio for Environment & Place);</p> <p>Cllr Jane Kelly (Communities, Leisure services, public health and sport)</p>
Corporate Director	Jess Gibbons, Chief Operating Officer
Report Authors	<p>Ian Poultney, Head of Sustainability</p> <p>Martin Whitchurch, Strategic Lead for Greenspace and Conservation</p>
Wards	Burton & Grange; Christchurch Town;
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 CTC, although the Task and Finish Group wished that to be taken forward by the new Council.
3. After the establishment of CTC 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, 11th December 2018 for sites and functions recommended for transfer)
4. Corporate Property Group (CPG) considered proposals to transfer assets to CTC at its meeting on 8th December 2021 and its recommendations were agreed (Appendix 1). This report provided the results of the Disposal of Public Open Spaces procedure. It also provided the terms and conditions of transfer for consideration.
5. CTC took an item to their November 2022 Council meeting for Christchurch Councillors to discuss the effects/consequences that would arise with the transfer of the play areas from BCP Council. They have now notified BCP Council of their decision to proceed with three of the proposed sites
 - Barrack Road Recreation Ground,
 - Two Riversmeet Skate Park
 - Waterman's Skate Park

Detailed site plans can be viewed in Appendices 3 - 5

6. This means that CTC have taken a decision at this time not to take on the other play areas as listed below.
 - Endfield Road Play Area
 - Knapp Mill Play Area
 - Mundeford Quay Play Area
 - Mundeford Recreation Ground Play Area
 - River Way Play Area
 - Rutland Road Play Area
 - Waterman's Park Two Play Areas

Potential Transfer of Skate park sites and Barrack Road Recreation Ground by Disposal of Public Open Space procedure.

7. In accordance with statutory requirements to advertise the disposal of open space land, Public Notices were published in the Echo on 26 May 2022 and 02 June 2022, with the closing date for objections and representations on 30 June 2022.
8. No objections were received as a result of the Disposal of Public Open Space procedure and therefore the disposal and transfer of these sites 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 2.
9. Some minor changes to the original Heads of Terms were agreed with CTC and they are incorporated within the Heads of Terms for transfer.

10. 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 assessed to establish the overall undervalue if this transfer proceeds. The legal position regarding the transfer of assets at undervalue by the Local Authority has been checked and advice provided (See Summary of Legal Implications below). The total undervalue is calculated as being £591,300.

Options Appraisal

11. CPG recommended that BCP Council honour the proposal originally made by CBC to transfer the originally identified facilities at the sites listed in point 5.
12. This transfer is to be under terms which are reflected in the Heads of Terms, including the original financial proposals to accompany transfer.
13. BCP Council currently has an obligation to keep all the assets proposed for transfer in good condition and available for public use. Revenue budget is used for play, grounds maintenance, hard landscaping and infrastructure, cleaning and building repairs (where appropriate). On transfer this will change with the overarching responsibility resting with CTC. Then resources can be invested back into BCP Council's Parks services.
14. CTC currently pays BCP Council for routine grounds maintenance, tree inspections and event management on former council sites transferred on 1st April 2019. This is provided by contract under a Service Level Agreement (SLA). BCP Council propose to add to this Agreement grounds maintenance/ tree inspections and play activities for the Recreation Grounds and skate parks, subject to CTC agreement. The maintenance and play contract could be renewed by mutual agreement at end of term.
15. CTC already pay Seascope South Ltd and other BCP Council service providers to arrange and recharge the cost of other work which is out of scope within the SLA. This arrangement is successful and can continue for street lighting, property maintenance and other requirements as they occur.

Summary of financial implications

16. CBC set aside £5,000 per play area to be transferred from the Christchurch Play Legacy Fund. This was ringfenced in the budget for refurbishing play areas as a commitment to fulfil maintenance of play equipment for a period of 5 years and is to be passed to CTC upon transfer for the sites to transfer.
17. Once transferred, any new investment in the facilities would be CTC's responsibility.
18. An SLA will be in place for any future maintenance activity undertaken by BCP on behalf of CTC and costs recharged accordingly.

Summary of legal implications

19. 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.
20. 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.
21. 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.
22. By a Deed of Dedication dated 03 April 2012, Waterman's Park 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 will be made to the Fields in Trust, but they will usually give consent, provided CTC enter into a similar Deed of Dedication with them.

Summary of human resources implications

23. TUPE does not apply as there are no relevant staff the major part of whose duties are to be responsible for the three spaces being transferred. The future maintenance of the spaces is for CTC to determine and an SLA is in place for BCP services.
24. No significant reduction in remaining BCP maintenance or officer duties warrant revenue budget savings or redundancies.

Summary of sustainability impact

25. This recommendation should not materially affect service delivery or facility provision on the ground. The facilities remain the same and are subject to CTC investing funds for improvement and to maintain to desired standards.

26. The BCP Strategic Green space team are working proactively with CTC on their neighbourhood plan, providing advice and resource where relevant to assist with place making and in support of the BCP Green Infrastructure Strategy.

Summary of public health implications

27. The Recreation Ground and skate park areas in question will be managed on a more local basis by CTC and as such may receive more attention and focus than in the larger BCP Council's portfolio of assets. There should be no tangible impact on usage, and therefore public health, of the sites resulting from transfer as the public will be largely unaware.

Summary of equality implications

28. The facilities shall be used for the same purpose as currently under BCP management, so no effect or impact on any groups.
29. An EIA conversation/screening document has been completed and has been attached as Appendix 6. The summary of which is: There are no specific equality implications that have been identified from the transfer of assets to CTC.

Summary of risk assessment

30. There is a risk that CTC may not be able to invest or maintain and keep the facilities open or to a desired standard. This risk also exists with BCP and should be mitigated through CTC's interest in the transfer and willingness to adopt the facilities.
31. The Heads of Terms dictate that BCP can buy back the facilities if there is any change of land use and protection if the land is sought to be sold.
32. CTC may consider a different type of provision, e.g. changing sports use, changing from skate to another recreation provision. This would presumably be open to public consultation and engagement and be supported by local users. However, the terms of the transfer contain provisions to ensure the sites continue to be used for the purposes of recreation. In the case of Waterman's Park any new facility may also require the consent of Fields in Trust.

Background papers

Extract from CBC Full Council Report, 11th December 2018 for sites and functions recommended for transfer, below.

Appendices

Appendix 1.

8th December 2021 Corporate Property group report.

Appendix 2

Proposed Heads of Terms for transfer

Appendix 3

Plan Site 1 – Two Riversmeet Skate Park

Appendix 4

Plan Site 2 – Barrack Road recreation ground

Appendix 5

Plan Site 3 – Waterman's Skate Park

Appendix 6

EIA screening tool

Appendix 7

Minutes of CTC Full Council meeting

Background Paper.

Extract from CBC Full Council Report, 11th December 2018 for sites and functions recommended for transfer

CHRISTCHURCH BOROUGH COUNCIL FULL COUNCIL

Minutes of the Meeting held on Tuesday, 11 December 2018 at 6.00 pm

Present:-

Councillor Cllr Mrs L Dedman – Chairman

Councillor Cllr P R A Hall – Vice-Chairman

Present: Councillors Cllr N C Geary, Cllr C Bath, Hon Freeman Cllr C R Bungey, Cllr B Davis, Cllr D A Flagg, Cllr T Fox, Cllr W Grace, Cllr V Hallam, Cllr P Hilliard, Cllr C P Jamieson, Cllr Mrs P F Jamieson, Cllr D C Jones, Cllr F F T Neale, Cllr R Nottage, Cllr Mrs L Smith and Cllr Mrs S Spittle

202.

Community Governance Review - Consequential and Supplementary Provisions

A report was submitted to Council, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

A revised recommendation was circulated to Members, this recommendation forms the substantive motion as set out below.

Members were requested to consider a number of supplementary provisions relating to the establishment of two new local councils for Christchurch Town and Highcliffe & Walkford.

Members thanked Officers and Members for all of the work that they had done.

RESOLVED that:-

- (a) the schedule of assets, as set out in Appendix 1 to this report, excluding those shown as play areas be approved for transfer to Christchurch Town Council and Highcliffe and Walkford Neighbourhood Council respectively on 31 March 2019;**
- (b) Bournemouth, Christchurch and Poole Shadow Authority be requested to enter into a Service Level Agreement to continue with the operational delivery of those services being transferred at a similar level and at a cost equal to the amount identified as the anticipated cost for these services as set out in Appendix 1;**
- (c) A Shadow Council for each new Council be established from 1 January 2019 for the purposes of recruiting respective Clerks and other matters that may require a decision prior to implementation;**
- (d) Officers be authorised to commence the recruitment process of staff for both councils as detailed in paragraphs 4.4 and 4.5 to this report;**
- (e) all other historic property, as defined in paragraph 5.1, be transferred to Christchurch Town Council on 31 March 2019;**
- (f) officers be authorised to submit a petition to the College of Arms to secure the transfer of the Borough Council's Armorial Bearings to the Christchurch Town Council at an estimated cost of £3,350;**
- (g) the boundary of the Christchurch parish and parish wards be amended by Order to be coterminous with the LGBCE proposed ward boundaries as shown in in paragraph 6.3;**
- (h) the anticipated precept amounts for Christchurch Town Council and Highcliffe and Walkford Neighbourhood Council, as detailed in the table at paragraph 7.5 to this report, be included in the Supplementary Order.**

Voting: Unanimous

Councillor T Fox left the meeting at 19:16 and Councillor Mrs L Smith left the meeting at 19:30 (prior to the vote being taken).