
TITLE: TRANSFER OF LAND KNOWN AS THE PADDOCKS, LITTLEPORT TO LITTLEPORT PARISH COUNCIL

Committee: Asset Development Sub-Committee

Date: 12 March 2015

Author: Sarah Steed, Solicitor

[P210]

1.0 ISSUE

- 1.1 The transfer of the land known as “the Paddocks” Littleport to Littleport Parish Council

2.0 RECOMMENDATION(S)

- 2.1 That the open space land known as the Paddocks is transferred from Cannon Kirk (the developer) to the District Council and then the land is transferred from the District Council to Littleport Parish Council. The transfer of the land from the District Council to Littleport Parish Council is to include a restriction that prevents development except for development that serves community uses falling within Use Classes D1 and D2 of The Town and Country Planning (Use Class) Order 1987.

3.0 BACKGROUND/OPTIONS

- 3.1 The District Council had as one of its corporate priorities the transfer of the open space land known as the Paddocks, (which formed part of the development at the Highfield Development in Littleport) to Littleport Parish Council.
- 3.2 A report was taken by the then Deputy Chief Executive on the 10 December 2013 to the Asset Development Committee for a decision as to how the Committee wanted the transfer to Littleport Parish Council to proceed, a copy of this report is attached as Appendix 1.
- 3.3 There were two options for the Asset Development Committee to choose from to enable a transfer to Littleport Parish Council, both of which required an amendment to the s106 agreement dated 15 April 2004. The first option was a direct transfer from Cannon Kirk to Littleport Parish Council and the second option was a transfer from Cannon Kirk to the District Council with a further transfer from the District Council to Littleport Parish Council.
- 3.4 Asset Development Committee’s decision on the 10 December 2013 was “that the land be transferred to the Council and then be transferred a second time from the Council to Littleport Parish Council”.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 Whilst the decision from the Asset Development Committee on the 10 December 2013 approved two separate transfers, the first between Cannon Kirk and the District Council and a second between the District Council and Littleport Parish Council, the decision did not record that members wanted the land transfer to include a restriction that the Parish Council could build a community use building but no other type of development on the land.
- 4.2 Following the Committee's decision work has been undertaken to agree a variation to the s106 agreement and draft transfers with Cannon Kirk, Littleport Parish Council and the County Council. Littleport Parish Council have stated that the draft transfer document needs to provide the Parish Council with the ability to be able to build a community use facility on the land as it has always been the Parish Council's intention to build a community room or pavilion on the site with ancillary parking and an access road.
- 4.3 It is therefore recommended that members approve the revised recommendation so that it is clear that members approve a restriction on the land transfer to permit Littleport Parish Council to build a community building falling within the use class D1 and D2 but no other development:

That the open space land known as the Paddocks is transferred from Cannon Kirk (the developer) to the District Council and then the land is transferred from the District Council to Littleport Parish Council and a restriction is included within the transfer to Littleport Parish Council that prevents development except for development that serves community uses falling within Use Classes D1 and D2 of The Town and Country Planning (Use Class) Order 1987

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

- 5.1 There are no additional financial implications to those identified within the Asset Development Committee report dated 10 December 2013
- 5.2 An Equality Impact Assessment (INRA) was completed as part of the report taken to the Asset Development Committee on the 10 December 2013. There is no change recommended as part of this report therefore a further INRA is not required.

6.0 APPENDICES

- 6.1 Asset Development Committee report dated 10 December 2013

Background Documents

S106 agreement dated 15
April 2004 relating to land
at Highfield Farm Littleport
Cambridgeshire

Location

Room 114
The Grange,
Ely

Contact Officer

Sarah Steed
Solicitor
(01353) 665555

Asset Development
Committee report dated 10
December 2013, minutes
and decision list

APPENDIX 1

**TITLE: TRANSFER OF LAND KNOWN AS THE PADDOCKS, LITTLEPORT
 TO LITTLEPORT PARISH COUNCIL**

Committee: Asset Development Committee

Date: 10 December 2013

Author: Andrew Killington, Deputy Chief Executive and Sarah Steed, Senior
 Legal Assistant

[N170]

1.0 ISSUE

- 1.1 The transfer of the land known as The Paddocks, Littleport to Littleport Parish Council (see Appendix 1).

2.0 RECOMMENDATION(S)

- 2.1 To agree that the additional public open space known as The Paddocks in Littleport is no longer to become an asset of the Council and will instead be transferred directly to Littleport Parish Council to maintain as public open space.

3.0 BACKGROUND/OPTIONS

- 3.1 The background to this matter is as follows; as part of the Highfield development in Littleport, a Section 106 (s106) planning obligation was completed on 1 October 1999. One of the obligations contained within this s106 agreement required the land known as The Paddocks to be transferred to the Council for nil consideration and for a family centre to be constructed on the land. A financial contribution was also secured to contribute towards the provision of a family centre to serve Littleport.
- 3.2 A variation to the s106 agreement dated 1 October 1999 was completed on the 15 April 2004. This varied the obligation in relation to the transfer of the land known as The Paddocks so that the land was no longer to be used for the siting of a family centre but was instead to be used as additional public open space. The obligation required the transfer of the additional public open space to the District Council.
- 3.3 The trigger point for the transfer of the additional public open space is before occupation of the 326th dwelling which is to be constructed as part of the Phase 1 development.
- 3.4 In previous years a variation to the s106 agreement had been sought so that the Paddock land could be transferred directly to Littleport Parish Council. This was because Littleport Parish Council were at the time looking to submit a bid for lottery funding for a community building to be built on the Paddock

land and it was a requirement of the bid that the organisation that was submitting the application owned the land. The bid was unsuccessful and the work to try and amend the s106 agreement ceased.

- 3.5 The Council has identified the transfer of the land known as The Paddocks at the Highfield development in Littleport as a corporate priority as articulated through the 'Talking Up Littleport' initiative.
- 3.6 There are two ways in which the Paddocks land could be transferred to Littleport Parish Council:
- (1) Variation of the s106 agreement obligation so that the developer transfers the Paddock land directly to Littleport Parish Council, or
 - (2) Transfer of the land to the Council and then a second transfer from the Council to Littleport Parish Council.

4.0 ARGUMENTS/CONCLUSIONS

- 4.1 Option 1 would involve negotiations to change the obligation within the s106 agreement so that Cannon Kirk (the developer and owner of the open space) would be required to transfer the Paddock land directly to Littleport Parish Council and include a restriction that the land is to be used and maintained as open space. The Solicitor acting on behalf of Cannon Kirk has indicated to the Council that Cannon Kirk would be agreeable to a variation to the s106 agreement provided that their legal fees to agree the variation document were paid for. The usual practice regarding fees is that the Council would seek to recover their own fees from the Applicant / person transferring the land, the Council would not usually pay for another party's legal fees.
- 4.2 Option 2 would require the Council to be involved in two processes the first being the transfer of the land from Cannon Kirk to the Council and the second the transfer of the land from the Council to Littleport Parish Council. As the s106 agreement does not prescribe that the transfer of the land is under the Open Spaces Act 1906 the transfer would need to comply with the provisions under s122 and s123 of the Local Government Act 1972. These provisions require the Council to advertise the appropriation and disposal of the land in two consecutive weeks in a newspaper circulating in the area in which the land is situated and consider any objections to the proposed appropriation which may be made to them. The Council would also need to ensure that any disposal was for best value otherwise consent would need to be obtained from the Secretary of State. In order to make this assessment a valuation would need to be carried out. The Council would include a restriction that the land is used and maintained as public open space.
- 4.3 With the above considerations contained in paragraph 4.1 and 4.2 above in mind it is recommended to Members that in order to achieve the corporate priority, Members agree that the additional public open space known as The Paddocks in Littleport is no longer to become an asset of the Council and will

instead be transferred directly to Littleport Parish Council to maintain as public open space in accordance with Option 1.

5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT

5.1 There are financial implications for both options:

5.1.1 Option 1 will require an amendment to the s106 agreement, as stated above the Council would usually seek to recover their costs from the Applicant / Owner of the land, however Cannon Kirk have indicated that they would enter into a variation of the s106 agreement provided that their legal fees were paid.

5.1.2 Option 2 will require two transfers: the first from Cannon Kirk to the Council and the second from the Council to Littleport Parish Council. There will be costs associated with these transfers including staff time spent drafting the documents and disbursements. Cannon Kirk have requested that if the transfer is requested prior to the 326th dwelling being occupied that their legal fees and disbursements are paid by the District Council in the sum of £550 plus VAT for their legal fees. There will also be legal costs and disbursements associated with a subsequent transfer from ECDC to Littleport Parish Council.

5.2 A draft Equality Impact Assessment (INRA) is attached at Appendix 2. It is anticipated that a decision to agree that The Paddocks is no longer to become an asset of the Council and the transfer of the open space to Littleport Parish Council directly would have a neutral equality impact. There is potential for a positive impact on local residents as this change would enable decisions regarding the open space to be taken at the local level which is in accordance with the localism agenda.

6.0 APPENDICES

6.1 Appendix 1 - Plan showing land known as The Paddocks Littleport.

6.2 Appendix 2 – Initial screening Equality Impact Assessment.

Background Documents

S106 agreement dated 15 April 2004 relating to land at Highfield Farm Littleport Cambridgeshire

Location

Room 119
The Grange,
Ely

Contact Officer

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Paddocks Littleport



GIS by Esri UK

Legend



Scale : 1:2500

Organisation	East Cambridgeshire District Council
Department	Legal Services
Comments	
Date	28 November 2013
SLA Number	100021279

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Impact and Needs/Requirements Assessment (INRA)
Initial Screening

Initial screening needs to take place for all new/revised Council policies. 'Policy' needs to be understood broadly to include all Council policies, strategies, services, functions, activities and decisions. This stage must be completed at the earliest opportunity to determine whether it is necessary to undertake an INRA for this activity.

Name of Policy:	Paddocks Littleport
Lead Officer (responsible for assessment):	Andrew Killington
Department:	Chief Executive Department
Others Involved in the Assessment (i.e. peer review, external challenge):	
Date Initial Screening Completed:	28 November 2013

- (a) **What is the policy trying to achieve?** i.e. What is the aim/purpose of the policy? Is it affected by external drivers for change? What outcomes do we want to achieve from the policy? How will the policy be put into practice?

Under a s106 (variation) agreement dated 15 April 2004 there is a requirement to transfer an area of open space which is known as the Paddocks in Littleport to the District Council. Littleport Parish Council has requested that this area of open space is transferred to the Parish Council to maintain as public open space rather than being transferred and maintained by the District Council.

- (b) **Who are its main beneficiaries?** i.e. who will be affected by the policy?

- Littleport Parish Council and local residents because if the open space is transferred to the Parish Council, then the open space would be maintained and decisions relating to the open space would be made at the local level which is in accordance with the localism agenda.
- The District Council who would achieve budget savings in relation to on-going maintenance.

- (c) **Is this assessment informed by any information or background data?** i.e. consultations, complaints, applications received, allocations/take-up, satisfaction rates, performance indicators, access audits, census data, benchmarking, workforce profile etc.

- The Council has identified the transfer of the land known as the Paddocks at the Highfield development in Littleport as a corporate priority as articulated through the 'Talking Up Littleport' initiative

(d) Does this policy have the potential to cause an impact (positive, negative or neutral) on different groups in the community, on the grounds of (please tick all that apply):

W

Ethnicity

X

Age

X

Gender

X

Religion and Belief

X

Disability

X

Sexual Orientation

X

Please explain any impact identified (positive, negative or neutral): i.e. What do you already know about equality impact or need? Is there any evidence that there is a higher or lower take-up by particular groups? Have there been any demographic changes or trends locally? Are there any barriers to accessing the policy or service?

The impact would be neutral in all cases if agreement is given by Asset Development Committee to agree that the Paddocks is not to become an asset of the District Council but instead is to become an asset of Littleport Parish Council. This is because the asset would continue to provide an open space for individuals to use within Littleport. There may even be a positive impact as the maintenance and decisions regarding the open space if transferred to the Parish Council could be taken at the local level which is in accordance with the localism agenda.

(e) Does the policy affect service users or the wider community?

1.1	NO
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(f) Does the policy have a significant effect on how services are delivered?

1.2	NO
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(g) Will it have a significant effect on how other organisations operate?

NO

(h) Does it involve a significant commitment of resources?

NO

(i) Does it relate to an area where there are known inequalities, e.g. disabled people's access to public transport etc?

NO

If you have answered **YES** to any of the questions above, then it is necessary to proceed with a full equality impact assessment. If the answer is **NO**, then this judgement and your response to the above questions will need to be countersigned by your Head of Service and then referred to the Council's Equal Opportunities Working Group (EOWG) for scrutiny and verification. Please forward completed and signed forms to Nicole Pema, Principal HR Officer.

Signatures:

Completing Officer: Andrew Killington

Date: 28 November 2013

Head of Service: _____

Date: _____