

Wimborne Town Council - additional asset for consideration

1. PURPOSE AND RECOMMENDATIONS

Report Type: Public Report for Decision

Purpose of Report: To seek approval for the transfer of an additional asset to Wimborne Town Council.

Recommendations: It is **RECOMMENDED** that:

(a) **The request for the transfer of the Valognes Garden to Wimborne Town Council is supported subject to the outcome of the consultation**

(b) **That the site is advertised in accordance with S.123 (2A) of the Local Government Act 1972 and if objections are received, these are referred back to Cabinet for consideration.**

Portfolio holder: Cllr Simon Tong (Change and Transformation)

Wards: Wimborne Minster;

Contact Officer: Judith Plumley (Head of Community and Leisure)
James Oram (Locum Solicitor)

2. BACKGROUND

- 2.1. In August 2018, Wimborne Town Council requested the transfer of a number of assets subject to receiving funding from car park income as well.
- 2.2. In October, Cabinet Committee agreed the transfer of several assets to Wimborne Town Council subject to confirmation from the Town Council that they wished to take them on without the benefit of income from a carpark.
- 2.3. In late November, confirmation was received from the Town Council regarding those assets that they wished to have transferred and at the same time, a request was received for the inclusion of the land known as Valognes Garden that had not previously been requested.

3. VALOGNES GARDEN

- 3.1. The area known as the Valognes Garden is shown on the attached plan, edged red (Appendix 1).

- 3.2. The title is clear; there are no adverse rights or third party interests affecting the property.
- 3.3. The site is managed as formal gardens by EDDC whose Grounds Maintenance Team mows the grass and maintains the herbaceous planting (agapanthus), ornamental shrubs and the beech hedge. Wimborne in Bloom volunteers carry out additional works as required.
- 3.4. The site is defined as Public Open Space and as such, any disposal to the Town Council would need to be advertised pursuant to s123 of the Local Government Act 1972.
- 3.5. The Council may not dispose of any land consisting or forming part of an open space, unless before disposing of the land they advertise their intention to do so in two consecutive weeks in a local newspaper and consider any objections to the proposed disposal which may be made to it.
- 3.6. If no objections are received, the transfers may proceed. However, if objections are received, these must be considered by Cabinet so that a final decision can be made as to whether or not the asset is transferred.
- 3.7. Subject to the outcome of the advertisement for disposal, there is no reason why the Valognes Garden may not be transferred to the Town Council on the same terms as all other assets which are being transferred (refer to report to Cabinet Committee of 9th August for full details).

4. IMPLICATIONS

2018-2019 Strategic Priorities

- 4.1. The matter under consideration impacts upon the key priorities of the Council's One Year Strategy in the following areas:-
 - **Asset management**
 - Asset register
 - Town & Parish Council liaison
 - Asset optimisation
 - **Change & Transformation**
 - One Year Strategy
 - Sustainable local governance post-Local Government Reorganisation
 - Oversight of transitional process
 - **Environment, Policy Planning & Housing**
 - Policy formulation for environmental asset transfers
 - Town & Parish Council liaison re environmental responsibilities
 - **Financial Oversight**
 - Maintaining financial viability and stability
 - Liaison with Shadow Authority re assets transfer

Legal

- 4.2. The Council has the legal power to dispose of its land as it sees fit, pursuant to S.123 of the Local Government Act 1972. This is subject to the requirement to obtain best value except in specific circumstances. It would therefore be necessary for the Council to be satisfied that the terms proposed represent best value.
- 4.3. In the case of this asset, EDDC incurs expenditure but will never receive any income from it, so by transferring the asset to the town council, a saving will be made.
- 4.4. There are therefore financial benefits to the Council in savings by transferring this asset and factors that would reduce the market value of these assets where they are being transferred with the intention of maintaining the existing use. In addition, the purpose of transferring the asset is to secure that facility for the local community and it is not intended that it should be a source of financial gain for the town/parish council. However, it is also recognised that assets may have a greater financial value if circumstances change in the future and the asset is developed for another purpose. EDDC is therefore seeking to ensure those circumstances are covered by imposing overage on asset transfers, so that this value is not lost. The Council does have the ability to dispose of property at less than market value where there are wider public benefits to be gained, as recognised by the Local Government Act 1972 General Disposal Consent (England) 2003. The Consent recognises that there may be circumstances where the Council considers it appropriate to dispose of land at an undervalue. A Council must not divest itself of valuable public assets unless it is satisfied that the circumstances warrant such action and if disposing of land at an undervalue, the Council must remain aware of the need to fulfil its fiduciary duty in a way which is accountable to local people. The terms of the Consent mean that land can be disposed of for less than best value if the Council considers this will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area, particularly having regard to its community strategy. The undervalue must not exceed £2,000,000. In transferring this asset, it is recognised that the town council may be better placed to implement improvements to these facilities and to promote these benefits at a local level.
- 4.5. If land forms part of or consists of an open space, there is also the statutory requirement to advertise the proposed disposal in two consecutive weeks in a local newspaper and consider any objections made before land is disposed.

Environmental

- 4.6. The asset proposed for transfer consists of open space. The Town Council has indicated their desire to continue to manage the space for this purpose. There are, therefore, no environmental implications as a result of this report.

Financial and Risk

- 4.7. Cabinet Committee has already set aside £44,000 in funding to progress the transfers.
- 4.8. There is a risk of challenge during a consultation period for the disposal of open space that will need to be considered.

Equalities

- 4.9. All Town and Parish Councils were given the opportunity to identify assets for transfer to their management from the District Council. In every case where assets are proposed for transfer, the Town or Parish has indicated that they wish to continue to manage the sites in the way that they have previously been managed and make them accessible to the wider community.

Consultation and Engagement

- 4.10. The procedures outlined above concerning the disposal of open space will mean that the community has the opportunity to comment on the proposed disposal.

5. CONCLUSION

- 5.1. A further request for the transfer of the asset known as Valognes Garden has been received from Wimborne Town Council.
- 5.2. Subject to the advertisement of the disposal of open space and there being no objections, there is no reason why this asset should not be transferred.

Appendices:

Appendix 1: Site Plan showing Valognes Garden

Background Papers:

Previous reports to Cabinet Committee (one-year strategy)