

Committee: Environment

Agenda Item

Date: 15 September 2009

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Title: TRANSFER OF BRIDGE END GARDEN TO
SAFFRON WALDEN TOWN COUNCIL

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Item for decision

Summary

- 1 This report responds to the request from Saffron Walden Town Council requesting that responsibility for Bridge End Garden be transferred to Saffron Walden Town Council. Such a proposal requires the agreement of a number of parties, essentially the owner of the garden; Heritage Lottery Fund (HLF) and both Town and District Councils and the support of the Friends of Bridge End Garden is highly desirable. There is a good level good support from all above so a in principle decision is now required.

Recommendations

- 2 That Members approve in principle, the proposal to assign the lease and transfer the responsibility for Bridge End Garden and respective equipment, materials and assets to Saffron Walden Town Council on tapering funding of up to 5 years.
- 3 That officers are authorised to commence formal consultation with affected staff regarding a Transfer of Undertakings, Protection of Employment (TUPE) transfer to Saffron Walden Town Council.
- 4 That the proposed transfer is advertised in a local newspaper for two weeks.
- 5 That a report is brought to the November meeting of this Committee to permit consideration of responses to the press advertisement and deal with any outstanding issues to permit a decision to be taken to make a recommendation or not to Finance and Administration Committee on the proposed transfer of this amenity.

Impact

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Communication/Consultation	Press release to be undertaken if approved. A two week advertisement in the local press will be required if approved and consideration of any responses. Meetings have taken place between interested parties.
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Community Safety	SWTC would need to have due regard for issues of safety.
Equalities	The transfer should be seamless from the customers' perspective.
Finance	<p>A potential annual saving of £71,000, phased in over five years, is the expected outcome of the combined transfer of assets proposals. This would represent an important contribution to the overall savings target of £1.3m identified in the Medium Term Financial Strategy.</p> <p>Net annual budgeted running costs for the sites under discussion total approximately £71,000. Subject to negotiation, it is envisaged that upon transfer UDC will provide grant funding to SWTC on a tapering basis over a five year period. Under such an arrangement UDC will be able to phase in reductions to the budget for these sites so that after five years, the budget will have reduced to nil.</p>
Human Rights	None
Legal implications	Legal procedures to be followed for the transfer of land.
Sustainability	Local ownership and accountability
Ward-specific impacts	Saffron Walden
Workforce/Workplace	Two staff are employed at this facility and both would need to be TUPE transferred to SWTC. Staff and Union are aware of this proposal.

Situation

- The District Council is in ownership of a number of assets in the Saffron Walden area that are not mirrored elsewhere in the district. Saffron Walden Town Council has resolved *"That the council instructs the Town Clerk to open discussions with Uttlesford District Council about the possibility of local amenities from Uttlesford District Council to Saffron Walden Town Council in the spirit of partnership working and the safeguarding and improvement of local assets. These amenities should include the following. Dorset House Garden – **Bridge End Garden** – Jubilee Gardens – The Battle Ditches- misc*

flower beds – Saffron Walden Cemetery.” All amenities other than Bridge End Garden have been the subject of a separate report.

- 8 Discussions have taken place between the District and Saffron Walden Town Council Officers to identify the scope of the proposal, ownership and boundaries of the land involved.
 - i) There appear to be no particular legal restrictions on the ability to transfer the land although as the areas are in the most part open spaces, the Council would have to advertise their intention as Section 123(2A) of the Local Government Act 1972 requires the Council to advertise the disposal of public open space for two consecutive weeks in a newspaper circulating in the locality, and take into account any representations made to the authority in deciding whether to go ahead with the disposal. Therefore if following advertising any representations are made, Members will need to consider them before the matter can be determined.
- 9 In addition, s123 Local Government Act 1972 requires an authority to obtain best consideration on the disposal of land. The General disposal Consent (England) Order 2003 gives powers to the local authority to dispose of land at less than best consideration if the local authority considers it will help secure the promotion or improvement of the economic, social or environmental well- being of its area, and the under-value does not exceed two million pounds.
- 10 The transfer of the Garden promotes the economic and environmental well-being as it is a facility which will be run and maintained at a more local level and the cost of running the areas is levied at a more local level, which is appropriate as there are not the same facilities anywhere else in the District.
- 12 The transfer will include provisions to ensure the future use of the area remains the same and that no change can be made without District Council agreement.
- 13 On transfer the Council will lose any input on how the areas are run, maintained and used.

14 **Lease of the garden**

Bridge End Garden is in private ownership and is leased to Uttlesford Council by virtue of a long lease which expires on 28 September 2036. The lease requires the formal consent of the land owner to any assignment of the lease. The owner has been contacted about this proposal and is enthusiastic about the transfer back to Saffron Walden Town Council.

16 **Corporate Plan Priorities**

This proposal fits in our plans under Partnerships “actively seeking opportunities for delivering services in partnership, with or by third parties and/or devolving service provision and developing shared service provision”.

17 **Staff implications**

Two gardeners are employed to exclusively take care of the Bridge End Garden and promote its use. Both of these would need to have their employment transferred to SWTC, the necessary consultations would need to be undertaken to deliver a TUPE transfer.

18 **Other assets**

There are a number of other assets of the council at this facility these include greenhouses, seats, mowers, gardening equipment, mess room facilities, public toilet, IT equipment, various practical and ascetic items including statutes. It is intended that all these would be included in a transfer along with responsibility for utilities, communications, CCTV. In essence, if the item is currently in situ – then it would be included in a transfer. UDC would need to disconnect any IT access to its own systems. An inventory and other considerations would be drawn up by the Manager who oversaw the restoration of the garden.

19 **Heritage Lottery Fund (HLF)**

If UDC wish to transfer the property within the 10 year contract life of both projects, HLF consent would be required to a change of grantee. If such consent was given, it would be on the condition that the Town Council took over the liabilities of the District Council under the two grant contracts. A novation agreement would release the District Council and join in the Town Council to the terms of the contracts. It is understood that if UDC and SWTC both wish for a transfer then HLF would grant it.

If the transfer proceeds, the Town Council would be responsible for meeting the ongoing contractual obligations e.g. maintenance, public access, insurance, retention of ownership etc for the remainder of the life of the 2 contracts (10 years from the date of each contract).

20 **Friends of Bridge End Garden**

The friends have been involved with in two meetings with both Councils and are comfortable with the proposals providing it permits the garden to continue to thrive. The best interest of the garden being their priority.

21 Advantages

SWTC feels it can manage this garden as it has a developing interest in both tourism and grounds maintenance. It has responsibility for the Tourist Information Centre and has established its own workforce to care for its own land. They see efficiencies from including a larger pool of work and having heavier, more efficient equipment to deal with it.

22 The Town Clerk would point out that an example of the improvements is evidenced at “The Close Garden” which was transferred to SWTC a few years ago and has attracted funding to greatly improve the amenity in recent times.

23 Handover

The District Council would need to release all records it holds for the garden and relinquish all involvement with its running. However, it is SWTC’s intention to safeguard and improve these assets.

Risk Analysis

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Risk	Likelihood	Impact	Mitigating actions
That the facilities deteriorate	1 (Grounds maintenance team already established)	2 (Community dissatisfaction expressed)	SWTC have expressed intention to safeguard and improve these local assets. Tapering funding would be in place. Staffing expertise would transfer with the garden.
That customer enquiries continue to come to UDC	3 (Inevitable that customer contacts will come our way from time to time)	2 (Customers irritated and needing to be rerouted)	Notice with hyperlink to SWTC on website Liaison with SWTC on telephone enquiries. Notification to key contacts. Press release
That there is ambiguity in the land transfer	1	2	Legal procedures to be followed and clear, written understanding between the two councils.

<p>“Cherry picking” of responsibility and or assets is permitted.</p>	<p>2 (small pockets of maintenance work left)</p>	<p>2 (Two authorities involved in same pocket of land)</p>	<p>All works and assets associated with the land is transferred with the land/responsibility.</p>
<p>That SWTC finds that the proposal no longer suits them</p>	<p>2 (Transfer is at their request)</p>	<p>2 (maintenance not addressed)</p>	<p>This is a permanent transfer and SWTC has plans in place to manage the facilities and will be required to meet the HLF contractual obligations.</p>

- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.