



DISPOSAL OF LAND / ASSET TRANSFER

REPORT TO:	Councillor Nick Worth, Leader of the Council
DATE:	1 April 2024
SUBJECT:	Transfer of Open Space to Quadring Parish Council
PURPOSE:	To recommend to the Leader that he exercise his authority to dispose of land at market value to Quadring Parish Council.
KEY DECISION:	<i>No</i>
REPORT OF:	Andy Fisher, Assistant Director – General Fund Assets
REPORT AUTHOR:	Marc Whelan – Strategic & Operational Property Manager
WARD(S) AFFECTED:	Quadring
EXEMPT REPORT?	No

SUMMARY

This report recommends to the Leader that he use his authority to determine the transfer of the following assets / land to Quadring Parish Council at their unrestricted market value of £1 assessed in accordance with the requirements of the Local Government Act 1972 as amended.

1. Casswell Drive, Quadring, PE11 4QW. Comprising of approximately 3,232sq meters.
2. St Margaret's, Quadring, PE11 4PR. Comprising of approximately 4,703sq meters.

As the land meets the definition of 'Public Open Space' set out within the Local Government Act 1972, its disposal has been subject to statutory notice pursuant to the requirements of Section 123 (2A) of the Act with no material representations having been received.

RECOMMENDATIONS

It is recommended that the Leader of the Council;

1. Acknowledge that the Assistant Director, General Fund Assets has followed the process set out by Section 123 (2A) of the Local Government Act, 1972, in respect the land edged red on the plans at Appendices 1 and 2 as the necessary precursor when considering the disposal of any land that is considered to be 'open space' under the Act, with no material representations having been received.
2. Determine to dispose of the land edged red on the plans at Appendices 1 and 2 by way of a freehold transfer at their unrestricted market value of £1 with the required Restrictive Covenants and 80% overage in place.

REASONS FOR RECOMMENDATIONS

The recommendations made represent due process and enable disposal of land at Market Value

OTHER OPTIONS CONSIDERED

1. Consider keeping the land assets and then continue to maintain the land and the Playpark equipment a cost to SHDC– This is not recommended.

BACKGROUND

The Council is seeking to dispose of dispose of the land edged red on the plans at Appendices 1 and 2 by way of a freehold transfer at its unrestricted market value of £1 with the required Restrictive Covenants & 80% overage in place to remain as designated Playparks and green open space for public use.

1. REPORT

- 1.1 The law governing the disposal of land owned by a principal council is prescribed within section 123 of The Local Government Act, 1972, as amended and is set out in Table 1 below:

Table 1 – Local Government Act, 1972, s123.

123 Disposal of land by principal councils.

(1) Subject to the following provisions of this section, [F1 and to those of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010,] a principal council may dispose of land held by them in any manner they wish.

(2) Except with the consent of the Secretary of State, a council shall not dispose of land under this section, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.

(2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.

(2AA) Subsection (2A) does not apply to a disposal to which the provisions of regulations made under section 1 of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010 apply.

(2B) Where by virtue of subsection (2A) above or in accordance with the provisions of regulations made under section 1 of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010.] a council dispose of land which is held—

(a) for the purpose of section 164 of the Public Health Act 1875 (pleasure grounds); or

(b) in accordance with section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds), the land shall by virtue of the disposal be freed from any trust arising solely by virtue of its being land held in trust for enjoyment by the public in accordance with the said section 164 or, as the case may be, the said section 10.

(7) For the purposes of this section a disposal of land is a disposal by way of a short tenancy if it consists—

(a) of the grant of a term not exceeding seven years, or

(b) of the assignment of a term which at the date of the assignment has not more than seven years to run,

and in this section “public trust land” has the meaning assigned to it by section 122(6) above.

Source: Local Government Act, 1972 -

<https://www.legislation.gov.uk/ukpga/1972/70/section/123>

- 1.2** The disposals being recommended are a ‘disposal’ of ‘open space’ requiring due process to be followed, that had been effected at the point of making the recommendations set out in this report with no material representations being received.
- 1.3** The assets being recommended for disposal have been valued in accordance with the requirements of the Local Government Act 1972 - General Disposal Consent 2003, with the independently assessed unrestricted value (ie market value) being £1.

1.4 The Assistant Director, General Fund Assets has followed the process set out by Section 123 (2A) of the Local Government Act, 1972, in respect the land edged red on the plan at Appendix 1 & Appendix 2 as the necessary precursor when considering the disposal of any land that is considered to be 'open space' under the Act, with no material representations having been received, ensuring the recommended transfer can be lawfully effected.

1.5 As the Leader has authority to exercise any Executive Function he is recommended to:

1. Acknowledge that the Assistant Director, General Fund Assets has followed the process set out by Section 123 (2A) of the Local Government Act, 1972, in respect the land edged red on the plans at Appendices 1 and 2 as the necessary precursor when considering the disposal of any land that is considered to be 'open space' under the Act, with no material representations having been received.
2. Determine to dispose of the land edged red on the plans at Appendices 1 and 2 by way of a freehold transfer at its unrestricted market value of £1 with the required Restrictive Covenants and 80% overage in place.

2. CONCLUSION

2.1 Given the appetite of the Parish Council to take the assets into their ownership with a view to maintaining and enhancing their community value, effecting a transfer at market value represents a sound decision that accords with the Council's adopted Asset Strategy 2023 – 2028.

EXPECTED BENEFITS TO THE PARTNERSHIP

Supports SELCP Sub-Regional Strategy Priorities – Healthy Lives; Environment.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCILS PARTNERSHIP

Supports SELCP Sub-Regional Strategy Priorities – Healthy Lives; Environment.

CORPORATE PRIORITIES

None

STAFFING

None.

WORKFORCE CAPACITY IMPLICATIONS

None.

CONSTITUTIONAL AND LEGAL IMPLICATIONS

The report sets out the due process necessary to be followed to meet the Council's lawful and constitutional obligations in terms of land and property matters. Legal Services Lincolnshire have advised on the greatest extent of restrictive covenants that can be placed on the land to safeguard its future use as public open space with those safeguards to be applied in the event the recommendations to this report are approved.

DATA PROTECTION

None.

FINANCIAL

The financial implications are positive for the District Council in terms of reducing the maintenance costs over the land as well as grass cutting and general maintenance it should also be noted that the District Council only has limited funds for playpark repairs and improvement.

RISK MANAGEMENT

Following the due process described within this report will mitigate any process related risks.

STAKEHOLDER / CONSULTATION / TIMESCALES

Consultation has been undertaken with the Leader, the Monitoring Officer and the s151 Officer.

REPUTATION

No reputational issues have been identified.

CONTRACTS

None.

CRIME AND DISORDER

Ensuring the ongoing operation, management and supervision of the asset should protect against crime and disorder.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

None.

HEALTH AND WELL BEING

Enabling opportunity for recreational participation and wide community access will provide ongoing health benefits for all using the facilities provided by the assets.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

NONE.

LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

MISSIONS	
This paper contributes to the following Missions outlined in the Government's Levelling Up White paper.	
Living Standards	NONE

Research and Development	NONE
Transport Infrastructure	NONE
Digital Connectivity	NONE
Education	NONE
Skills	NONE
Health	Enabling opportunity for recreational participation and wide community access will provide ongoing health benefits for all using the facilities provided by the asset.
Wellbeing	Enabling opportunity for sporting recreational and wide community access will provide ongoing health benefits for all using the facilities provided by the asset.
Pride in Place	Ensuring a successful and vibrant future for the assets and its facilities will support pride in place.
Housing	
Crime	Ensuring the full operation and localised & effective management and supervision of the asset will minimise the opportunity for crime and anti-social behaviour.
Local Leadership	NONE

ACRONYMS

SELCP – South and East Lincolnshire Councils Partnership.

APPENDICES	
Appendices are listed below and attached to the back of the report: -	
APPENDIX as numbered	The land subject to the report is all that edged red on the plans at Appendices 1 and 2.

BACKGROUND PAPERS	
Background papers used in the production of this report are listed below: -	
Document title	Where the document can be viewed
Valuation Report - Casswell Drive, Quadring, PE11 4QW. Comprising of approximately 3,232sq meters and St Margaret's, Quadring, PE11 4PR. Comprising of approximately 4,703sq meters.	Estates & Assets team, South Holland District Council.
Restrictive Covenant Advice Note, Legal Services Lincolnshire.	Estates & Assets team, South Holland District Council.

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CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:	Marc Whelan – Strategic & Operational Property Manager for South Holland District Council
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Signed off by:	Andy Fisher, AD – General Fund Assets
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Approved for publication:	Councillor Nick Worth - Leader
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Appendix 1 – Land and Assets at Casswell Drive, Quading to be transferred – edged red.



Appendix 2 – Land and assets at St Margarets, Quadring to be transferred – edged red.

