

CABINET

7 December 2011

FUTURE OF BLANCHARD ROAD PLAY AREA

REPORT OF HEAD OF LANDSCAPE AND OPEN SPACES

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RECENT REFERENCES:

[WTF143](#) – Playground Five Year Refurbishment Plan – 20 January 2010

[CAB1963](#) – Capital Programme 2009/10 to 2013/14 – 3 February 2010

[CAB2118](#) – Play Area Refurbishment Plan – 9 February 2011

[CAB2221](#) – Future of City Council playgrounds within parishes – 14 September 2011

EXECUTIVE SUMMARY:

In September 2011, Cabinet considered the option of transferring Blanchard Road play area to the Parish Council. Cabinet requested that TACT be consulted on this proposal and this report contains the results of that consultation process.

RECOMMENDATIONS:

1. That the proposal to grant a lease of the play area at Blanchard Road, Bishops Waltham to Bishops Waltham Parish Council for a term of 25 years for a nominal rent as set out in the report be approved.
2. That the proposal be advertised as set out in paragraph 4.3 of the report and if any representations are received, a further report on these be brought back to Cabinet.
3. That delegated authority be given to the Head of Estates to agree detailed terms with the Parish Council for the grant of the lease.

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DETAIL:

1 Introduction

- 1.1 The Council is responsible for the provision of 31 children's playgrounds, 26 of which are in the Winchester Town area and 5 in other parishes within the District.
- 1.2 Parish Councils also provide play areas in their respective parishes as they consider appropriate.
- 1.3 In February 2011 ([CAB2118](#) refers), Cabinet agreed a five year plan to continue the refurbishment programme for the town area ensuring high quality play provision which meets the needs of the local community. Refurbishment of the town play areas is funded from the Winchester Town allocation of the Open Space Fund.
- 1.4 The City Council has previously funded refurbishment of its play areas in the parishes using an annual capital allocation of £50,000, as the Open Space Fund allocation cannot be utilised outside the Town Area (outside Winchester Town, the use of Open Space Fund resources is determined by individual parish councils). Due to current financial constraints, the City Council has deferred significant elements of its capital programme. Thus, the capital budget for refurbishment of play areas outside the Town Area is no longer available and the future of these sites has previously been considered by Cabinet.
- 1.5 In September 2011 ([CAB2221](#) refers), Cabinet approved the removal of the play areas at Provene Gardens (Waltham Chase), The Hallway (Littleton) and Godfrey Pink Way, (Bishop's Waltham), as they contributed little play value to the locality and there are significant alternative play facilities nearby. This work has now been completed.
- 1.6 Cabinet also approved the transfer of the play area at Fryers Close (King's Worthy) to King's Worthy Parish Council and the transfer of the open space at Provene Gardens (following the removal of the play area) to Shedfield Parish Council.
- 1.7 In respect of the play area at Blanchard Road, Bishop's Waltham, Cabinet approved the conversion of the basketball court into a grassed area (and agreed funding for this). Cabinet deferred making a decision on the issue of

disposal of the play area until TACT had been consulted and a further report brought back.

2 Background

2.1 Bishop's Waltham Parish Council wish to take on the play area at Blanchard Road. This site currently incorporates a disused basketball court, which the Parish Council have requested be removed prior to transfer. The removal of the basketball court and associated funding were agreed by Cabinet in September and this work has now started.

2.1 The Blanchard Road play area falls within assets held within the Housing Revenue Account (HRA) and Cabinet asked that TACT be consulted about the proposed transfer to the Parish Council.

3 Results of the Consultation and Options Appraisal

3.1 The Chair of TACT was contacted regarding the proposal to transfer the play area at Blanchard Road to the parish council, as there is no TACT representative in Bishop's Waltham. The proposal was also discussed by TACT at their meeting on 19 October 2011. The Chair of TACT advised that TACT members were opposed to transfer of the land to the Parish Council. TACT considers that there have recently been a number of transfers of land assets out of the HRA and they are concerned about further diminution of HRA assets, which may restrict future options. TACT advised that they would, however, support a long lease to the parish council instead of a land transfer.

3.2 This leaves three possible options for the future of Blanchard Road play area and these are outlined below:

Option 1 – Retain the site within City Council ownership

3.3 If the decision is made for the City Council to retain the land, then the play area would have to be removed at a cost of approximately £12,000 and the area returned to grass. The grass would then continue to be maintained as part of the grounds maintenance contract and the area would stay within the HRA. This would not be a very satisfactory outcome when the Parish Council value the facility, want to retain it and are prepared to accept the area as a land transfer.

Option 2 – Transfer to site to the parish council

3.4 If the site is transferred to the Parish Council, it will have access to Open Space Fund resources with which to fund the necessary refurbishment work. The transfer will give the Parish Council complete control over the site, greater autonomy over the management of the site to meet the needs of the community and responsibility for its ongoing maintenance. The cost to the Council would be the legal costs (£850-£1,000) associated with the land transfer which can be met from existing resources.

Option 3 – Lease the land to the Parish Council

- 3.5 If the site were to be leased to the Parish Council, it would be necessary to enter into a long-term lease of at least 25 years to allow the Parish Council to access Open Space Fund resources for refurbishment. The Parish Council would require agreement from the City Council regarding the equipment to be installed.
- 3.6 The Parish Council have confirmed that they would accept a lease instead of a complete land transfer as long as terms could be agreed. The legal work involved in entering into a lease is slightly more than for a land transfer, but granting a lease ensures that the asset remains in the HRA for the long term. A break clause would allow termination of the lease in the event that a development opportunity involving the land were to arise in the future.

4 Procedure

- 4.1 As the land is housing land within the HRA, the consent of the Secretary of State is required under Section 32 of the Housing Act 1980. Although there are general powers in Section 123 of the Local Government Act 1972 to dispose of land held by a local authority (and a corresponding general consent to allow disposal at less than best consideration) these powers do not apply to land held for housing purposes, such as the Blanchard Road Play Area. Section 32 is the only power under which housing land can be disposed of, and requires the consent of the Secretary of State to any disposal (regardless of nature or value), although various general consents have been issued.
- 4.2 The General Consent for the Disposal of Part II Land 2005 (General Consent E) gives consent for disposals of land (including an outright sale or grant of a lease of any length), for a consideration to be determined by the Council, where the land is to be used for a purpose (other than housing accommodation) which does not involve trading for profit and is beneficial to persons, the majority of whom the Council expects to be inhabitants of the estate or neighbourhood in which the land is situated. This consent would therefore apply to the transaction proposed.
- 4.3 It is proposed to advertise the disposal by public notices in the local newspaper, and by a site notice. Any representations would be reported to Cabinet. The Head of Estates views the rental value of the land for its existing use as nominal.

5 Conclusions

- 5.1 The grant of a lease to the Parish Council will allow it to seek funds from the Open Space Fund for improvements to the play area, whilst retaining the land in the HRA for the long term.
- 5.2 A lease for 25 years to the Parish Council at a nominal rent, with obligations to maintain the play area and its equipment, and a break clause in case of development possibilities arising, is therefore recommended.

OTHER CONSIDERATIONS:

6 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

- 6.1 The transfer of play areas will retain community benefit and provide a resource to satisfy community requirements as identified within the Community Strategy.

7 RESOURCE IMPLICATIONS:

- 7.1 Were Option 1 (retain the land in Council ownership but remove the play area) to be selected, a revenue budget of £12,000 would be required to remove the play area and return the area to amenity grass land.
- 7.2 Given the nature and existing restrictions on the land, it is likely that the disposal of this land to the Parish Council at nil value would be the best consideration which could be achieved from the land.
- 7.3 The cost of the legal work involved in a land transfer or a lease can be met from within existing resources.

8 RISK MANAGEMENT ISSUES

- 8.1 The risk of failure to maintain play areas will result in equipment having to be decommissioned and removed without replacement. Such decommission also has cost implications for which there is no budget.
- 8.2 A proactive approach to play area management mitigates the risks associated with equipment becoming worn and potentially dangerous once outside the period of use for which it was designed. It also reduces costs to the Council of maintenance associated with older, worn equipment.
- 8.3 If a lease is granted with a break clause for development, Open Space Fund monies are used to fund a refurbishment, and the break clause is exercised to allow development to take place, consideration will have to be given at that time as to whether sufficient value has been obtained from the use of the funds by the time the break clause is exercised. If this is not the case, an appropriate payment back into the Fund will mitigate any risk of a claim from developers who have contributed to the Fund in the past.

BACKGROUND DOCUMENTS:

None

APPENDICES:

None.