

## **Full Council Meeting – 28 July 2016**

### **Agenda Item CC1624**

#### **Land Transfer**

##### **Introduction**

For a few years our Parish Council had a view to seek the transfer of land from TRDC to our ownership. This has been a slow process with TRDC. However following this being brought up in October last year by the Chairman at the joint Parish Councils meeting, TRDC have now produced a policy for the transfer of land to Parish Councils and community groups. Please see enclosed. (Appendix A)

The transfer working party has met to discuss this policy and decided we now need to proceed with the backing of the full council.

##### **Discussion Narrative**

A working party was set up in January 2013, and the three councillors, led by Cllr Bennett managed to have a meeting with TRDC in December 2013. Unfortunately TRDC did not respond to that meeting and no progress was made. So in October 2014, Cllr Mitchell in the role as Chairman at the joint Parish and TRDC Councils meeting brought the subject up to see when TRDC will get back to us. We received a rather frosty response from Members and officers at that point and they said they would have to conduct an asset review before getting back to us. This was chased up in early 2015 and the response was in April 2015 from TRDC that they wanted £1,200 per site for a valuation to be carried out. We then sent a FOI requesting them for the values of the land plots; this was refused as being too many sites. So a revised FOI for fewer sites was sent. We have never actually received a response from them to date.

Following the elections in 2015, the Chairman spoke to all the TRDC Councillors about the issue, and found that all of them except one was in favour of certain sites being transferred to the Parish Council, and the other preferred long leases.

Mr Clerk and the Chairman had a meeting with the clerk from Harpenden Town Council just over a year ago. They have taken over quite a lot of land from St Albans City Council. So we know there is a precedent and also the processes used.

The Chairman brought the subject up again in October 2015 at the joint Councils meeting. This time they were more positive, and wanted to consider the issue and get back to us. The Clerk and Chairman chased various people in TRDC, and eventually the CEO responded, in June, to the chairman saying that a new policy has been agreed.

The present working party for the land transfer met on the 30 June. The new policy was discussed and in general it was felt it was workable. There are potential conflicts in it that may be a problem; however it was felt that the best course of action is to submit a request for land transfers.

Prior to this being sent in, the Clerk will set up a meeting with Chris Hope from TRDC to discuss the process and how best to approach it.

The number of sites that we should be applied for were discussed, and the balance of opinion for the working party is that we should apply for the maximum that we believe we should have transferred at this stage. There is a lot of work to be carried out, and it may be that some sites drop out along the way, but at least TRDC will understand what our aspirations are.

We should discuss the potential sites that we apply for, and the enclosed list (Appendix B) show the sites that TRDC own in Croxley Green. If you know of more, please email the Clerk.

### **Recommendation(s)**

To recommend to Council that;

1. We proceed to put together an application to TRDC under the new policy produced by TRDC;
2. That the Clerk meets with Chris Hope with the chairman and agrees a process and timetable;
3. The PC submits an application to start the process, and the working party progresses the application;
4. Agree the sites that should be included, or agree that the working party is delegated to finalise this list
5. Regular reports to Council are given.

Cllr Mitchell  
20 July 2016

## POLICY AND RESOURCES COMMITTEE - 25 JANUARY 2016

### PART I - DELEGATED

#### 11. TRANSFER OF ASSETS FRAMEWORK (CE)

##### 1. Summary

1.1 At the last joint meeting on Monday 5 October 2015 of this Council and representatives from the Parish Councils, the latter renewed their request for this Council to consider whether it might transfer assets to a third party such as a parish council or community group. Following the meeting, Cabinet requested a framework for considering whether and how to transfer assets to a third party.

1.2 The Localism Act 2011 introduced the Community Rights to Bid and Challenge (the Right to Bid having become effective in October 2012). Whilst the new Act does not set out any new legislation governing transfers to community and voluntary organisations, the principles of the Act encourage Councils to consider the transfer of Community Assets and other services to other organisations. This report deals just with assets and offers for discussion a potential framework.

##### 2. Details

2.1 Community Asset Transfer can mean the transfer of the control of an asset from the Council to a Community/Voluntary Group. This may take the form of a short term licence agreement, a long or short term lease or even a freehold disposal. Therefore, if adopted, this process would form the means of disposing of surplus assets to parish councils and community and voluntary organisations.

2.2 For a body other than a town or parish council to be eligible it must:

- be representative and inclusive of the community it serves (if not a democratically elected body, it should include democratically elected members e.g. ward councillors);
- be established for the express purpose of furthering the social, economic and environmental well being of individuals living, or wanting to live, in an area that consists of or includes the neighbourhood area concerned;
- have a membership open to individuals living or working in the neighbourhood area concerned; or elected members of the county council or district council any of whose area falls within the neighbourhood area concerned;
- have at least 21 members;
- have a written constitution; and
- such other conditions as may be prescribed.

2.3 The devolution of assets and services must operate within the statutory framework, including procurement, equality of opportunity and employment protection legislation. To devolve assets, the District Council will consider bids to run the following assets as outlined in the menu below.

2.4 Menu of assets which can be devolved.

| Assets                              | What this means  | Resources needed to do this  |
|-------------------------------------|--|--|
| Play areas<br>Parks and open spaces | Transfer of freehold and responsibility for management | Access to expertise, knowledge, skills<br>(e.g. via staff, volunteers, |

|   |  |  |
|---|--|--|
| <p>Community buildings</p> <p>Operational buildings already occupied by parish councils or community groups</p> |  | <p>consultants) in:</p> <ul style="list-style-type: none"> <li>- managing land, buildings and facilities;</li> <li>- relevant legislation/best practice affecting the asset (for example health and safety, risk management and Landlord and Tenant Act)</li> <li>- to identify and deal with building defects, repair and maintenance needs etc;</li> <li>- financial management systems</li> </ul> |
|---|--|--|

2.5

Suggested criteria for devolving assets.

- Assets will be considered if they are of local significance e.g. of primary benefit to local residents in that area or the main operational or administrative building of the town/parish council. Assets which are considered of critical strategic importance to the District as a whole (for example those which form a central part of the Local Development Framework) are best managed strategically at District level.
- Any transfer of assets must either make money (capital or revenue) for TRDC or reduce its cost base.
- Assets must have been reviewed as part of TRDC's Asset Register.
- The asset will be devolved along, in effect, with the special expenses allocated for that asset (the District Council will cease spending and the town/parish council will start to tax for the special expenses amount).
- The asset will be devolved along with the maintenance and other property-holding costs from the Council to these groups.
- Assets may be devolved by selling the asset. Where the freehold of an asset is to be transferred, TRDC will require payment for the asset and/or may decide to impose covenants, claw-back clauses etc. in order to protect the future of the asset.
- Bodies bidding to take on an asset must provide evidence, in the form of a robust business plan, that they can manage and finance the asset as part of their proposal. TRDC will support bodies in preparing these plans. As part of this process bodies must ensure that funding is in place to cover future dilapidation or damage.
- Bodies bidding to take on an asset must provide evidence that they have the capacity and skills to deliver the function as part of their proposal.

2.6

To proceed with bids, TRDC will discuss proposals against the criteria with the proposing body. We would expect it to take 3 to 6 months to complete, providing the bid is straightforward. However, a longer timescale may be necessary if the bid is more complex, for example, if it involves consideration as part of an existing major contract.

3. **Options/Reasons for Recommendation**
- 3.1 To offer a framework within which to deal with community bids.
4. **Policy/Budget Reference and Implications**
- 4.1 The recommendations in this report are not within the Council's agreed policy and budgets.
- 4.2 The purposes of this proposed policy is to raise income in the short and long term for TRDC and/or reduce the costs burden of the Council.
5. **Financial Implications**
- 5.1 The financial implications of the proposed Community Asset Transfer framework will vary depending on many factors, such as the number of enquiries from community groups, the complexity of their proposals and the type of properties involved.
- 5.2 In addition to the officer time and other necessary costs in responding to enquiries through to creating legal agreements, there are also ongoing costs in respect of monitoring the agreements and annual reviews.
- 5.3 It is anticipated that transfer of assets to community groups will also transfer maintenance and other property holding costs from the Council to these groups.
- 5.4 The proposed strategy allows for the possibility of community groups being charged rent and other charges for occupying the assets. Any charges will be revenue income to the Council.
- 5.5 It should also be noted that the transfer of some assets, either at nil rent, reduced rent or disposal, will result in a reduction of the Council's ability to generate revenue income from these assets.
- 5.6 The financial implication of each community asset transfer will need to be detailed in the individual reports as the proposals are progressed through the strategy.
- 5.7 The Community Asset Transfer framework anticipates that a property is leased to the Community Body, which will then be responsible for all costs associated with its occupation of the property, including repairs and maintenance, rates, insurance, heating, lighting etc. and the community organisation must be able to demonstrate objectively how the transfer will '...contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of the area'
- 5.8 The Council does recognise that certain community organisations may need support to achieve the required level of expertise and experience.
- 5.9 The Council also understands that this must also reflect the requirements of the community organisation's future funding for projects that the community organisations will be taking on.
6. **Legal Implications**
- 6.1 Best Value: Under Section 123 of the Local Government Act 1972, local authorities are required to obtain best value in land transactions. However there is a general disposal consent which allows disposal of land at an undervalue in certain circumstances. Sale of land that will promote or improve the economic, social or environmental well-being of its area is acceptable provided the undervalue does not exceed £2,000,000 (two million pounds).

6.2 Open Spaces: - Under S123 (2a) of the Local Government Act 1972, if sale of open space land is contemplated, it must first be advertised for two consecutive weeks. The authority must then take into account any objections to the proposed disposal. Land is considered to be Open Space if it was acquired under section 164 of the Public Health Act 1875 (pleasure grounds) or is held under section 10 of the Open Spaces Act 1906 (duty of local authority to maintain open spaces and burial grounds).

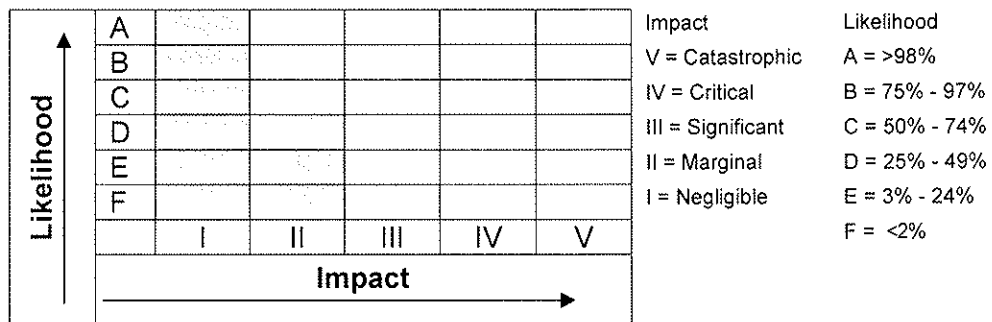
7. **Equal Opportunities, Staffing, Environmental, Community Safety, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications** None specific

8. **Risk Management and Health & Safety Implications**

8.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

8.2 There are no risks to the Council in agreeing the recommendation.

8.3 The above risks are plotted on the matrix below depending on the scored assessments of impact and likelihood, detailed definitions of which are included in the risk management strategy. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood are plotted in the shaded area of the matrix. The remaining risks require a treatment plan.



8.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of treatment plans are reviewed by the Audit Committee annually.

9. **Recommendation**

9.1 That Policy & Resources Committee consider the proposals.

Report prepared by: Steven Halls, CE

**Data Quality** - Data sources: N/A

**Background Papers** None

**APPENDICES / ATTACHMENTS** None

**List of known properties owned by TRDC in Croxley Green (provisional)**

1. Croxley Green – The Green
2. Any other land associated with The Green –specify individual locations(s)
3. Stones Orchard
4. Any other land associated with Stones Orchard – specify individual locations(s)
5. Land associated with Croxley Green Community Association
6. Land associated with Croxley Green Parish Council
7. Land associated with Croxley Green Guild of Sports
8. Croxley Green Common Moor
9. Barton Way Recreation Ground
10. Baldwins Lane Recreation Ground
11. Land adjacent to Three Bridges Roundabout/Play area
12. Car parks including, but not exclusively, Community Way car park, Barton Way Recreation Ground car park, Baldwins Lane Recreation Ground car park
13. Croxleyhall Woods Area 1
14. Croxleyhall Woods Area 2
15. Croxleyhall Woods Area 3
16. Croxleyhall Woods Area 4
17. Any land owned on Croxley Green's second Village Green or close by, colloquially referred to as Buddleia Walk
18. Croxley Green Library and Red Cross Centre
19. TRDC land holdings at Croxley Green Metropolitan Station
20. Any residential property owned by TRDC that was not transferred to Thrive Homes
21. All Allotment grounds in Croxley Green.