

# **Cabinet**

## **5 May 2020**

### **Transfer of assets to Portland Town Council**

#### **For Decision**

**Portfolio Holder:** Cllr T Ferrari, Finance, Commercial and Assets

**Local Councillor(s):** Cllr Cocking, Cllr Hughes, Cllr Kimber

**Executive Director:** John Sellgren, Executive Director of Place

Report Author: Carly Galloway

Title: Special Projects Manager

Tel: 01305 252237

Email: [carly.galloway@dorsetcouncil.gov.uk](mailto:carly.galloway@dorsetcouncil.gov.uk)

**Report Status:** Public

#### **Recommendation:**

- a) That the assets listed in Appendix A are transferred freehold to Portland Town Council at less than best consideration with no clawback provisions.
- b) That the assets listed in Appendix B are transferred leasehold to Portland Town Council at less than best consideration with covenants to retain control of future use and ownership.
- c) That the right to work the minerals be excluded on all transferring assets.
- d) For Dorset Council to keep control of the Verne Common including areas covered by High Level Stewardship agreement and be able to licence the Town Council to hold suitable events.
- e) To progress discussions with the Crown Estate and Portland Town Council to relinquish the management of assets currently managed by Dorset Council and owned by the Crown Estate.
- f) That the Executive Director for Place in conjunction with the Portfolio Holder for Commercial, Finance and Assets has authority to make changes to the above.

## **Reason for Recommendation:**

To confirm the assets to be transferred and the basis of transfers to Portland Town Council.

Weymouth & Portland Borough Council carried out services which are more typically that of a Town Council, such as allotments and parks. Prior to the formation of Dorset Council some services and assets were agreed to be transferred to Weymouth & Portland Town Councils. Transfers to Weymouth Town Council were dealt with as part of the formation of Weymouth Town Council. Portland Town Council already existed and therefore the asset transfer process is required to be completed separately.

Member authority is required to transfer assets (some with values reported in excess of £100,000) at less than best consideration, ie at less than market value.

### **1. Executive Summary**

This report seeks approval from members for authority to proceed with the proposed asset transfers to Portland Town Council on a less than best consideration basis

### **2. Financial Implications**

Financial responsibility passed to PTC in April 2019 and they have been responsible for maintaining the assets since then.

If the assets are transferred at less than best consideration full market value will not be received, however maintenance liabilities will no longer rest with DC. The five assets to be transferred leasehold will be subject to restrictive use clauses and rights may be retained to initiate change of use. This will not apply to the assets transferred freehold.

### **3. Climate implications**

No direct implications are anticipated

### **4. Other Implications**

Dorset Council will maintain a long term interest in those assets which transfer leasehold

### **5. Risk Assessment**

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: MEDIUM

Residual Risk LOW

## **6. Equalities Impact Assessment**

N/A

## **7. Appendices**

Appendix A – list of assets to be transferred freehold to Portland Town Council

Appendix B – list of assets to be transferred leasehold to Portland Town Council

Appendix C – list of assets originally proposed to be transferred now to be retained by Dorset Council

Appendix D – list of assets originally proposed to be transferred now outside scope

Appendix E – plans showing location of assets proposed to transfer

## **8. Background Papers**

Licence to Portland Town Council 1 April 2019

WPBC Full Council 21 February 2019

WPBC Management Committee 5 February 2019

DC Shadow Executive Committee 14 January 2019

DC Shadow Executive Committee 20 July 2018

## **9. Asset Transfer Process**

9.1 The process of transferring assets to Portland Town Council utilises the provisions of the Local Government Act 1972 Section 123(2) and s 128(1) and circular 06/03 Local Government Act 1972 General Disposal Consent (England) 2003. This legislation enables Councils to use wellbeing powers to transfer assets at less than best consideration providing the Councils follow procedures set out in the Circular and associated guidance. Market valuations have to be obtained for these assets, taking into account any conditions or if the total value of these assets is in excess of £2m then the Secretary of State approval will be required. The transfer of any assets, with the exception of allotments, can only be made in negotiation with the Town Council.

9.2 Portland Town Council were granted an MOU from the 1<sup>st</sup> April 2019 to manage the assets attached to the final report approved by WPBC Full

Council. This was to allow time for more detailed asset investigations, site visits, legal title, valuation and costs and revenue implications to both Dorset Council and Portland Town Council to be considered and agreed.

- 9.3 Since April more detailed asset investigations have taken place and following further discussions with Portland Town Council, a number of these assets were deemed not suitable for transfer. These assets have subsequently been removed from the MOU and have fallen back to the responsibility of Dorset Council (See Appendix C for list of these assets). Two additional assets have been recommended to transfer that were not in the original proposed list. In total 28 assets are proposed to transfer to Portland Town Council. The assets proposed to be disposed of freehold are listed in Appendix A, and those leasehold in Appendix B. A number of assets after investigation were deemed to be out of scope for transfer see Appendix D for list of these assets.
- 9.4 A public notice has been advertised on the disposal of public open space to Portland Town Council with no objections received

## **10. Asset Transfer Process**

- 10.1 An external valuation exercise has been carried out for all assets proposed to be transferred and it is estimated that collectively the values total £1.116 million (based on the exclusion of all mineral rights if all transfers proceed on a freehold basis and each transfer is at £1 then the transfers are at less than best consideration. If the five assets listed below are transferred by long lease then the total value of all transferring assets reduces to £727,000.
- 10.2 The valuation reports reflect the value of the freehold interests and in some instances this includes a limited element of 'hope' value. The proposed freehold transfers will not have restrictions on use or contain any clawback provisions.
- 10.3 Five assets have been valued at over £100,000;
- Hambro Car Park
  - The Islanders Club at Leet Close East Weare Road
  - The Portland Museum in Wakeham
  - Sweethill Lane Play Area and Recreation Ground
  - Grove Road Recreation Ground
- 10.4 The five assets listed above are proposed to be transferred leasehold with restrictive use and rights may be reserved to initiate change of use. This will enable the Council to address any future opportunities that then represents best use and value from these assets. By way of example the Grove Road Recreational Ground comprises 3.78 hectares (9.28 acres) of open space containing football pitches. Despite an absence of planning consent, land in this locality is likely to sell above agricultural/amenity

value today. The Council has recently achieved unconditional land sales on the island equating to about £250,000 per acre which illustrates the future potential value that could be lost if the asset was transferred without an appropriate legal mechanism to realise asset value.

- 10.5 If leasehold transfers proceed at less than best consideration then rents will be set at £1 pa and may not be collected.

## **11. Risks to the Project**

- 11.1 Some assets have not transferred to Portland Town Council as per the original committee report on which budgets were set. For those assets now not transferring Dorset Council will need to pick up operational and financial responsibility. It is not possible to quantify the budget impact at this time but should be minimal.
- 11.2 As all asset transfers, with the exception of allotments, can only be undertaken with the express agreement of Portland Town Council there is a risk that they could choose not to take the assets on the amended transfer list with a financial impact for Dorset Council.
- 11.3 The operational liability would fall back to Dorset Council leading to a mismatch in resources as the parks equipment and officers have been gifted and TUPE transferred to the Town Council.

## **12. Financial Implications**

- 12.1 The total value of the proposed transfers including the 5 leasehold transfers are £727,000. The impact of the transfer of the functions and assets were factored into the 2019/20 budget for Dorset Council and information was provided to Portland Town Council to inform their 2019/20 precept (c£159k). Where assets that are proposed to transfer have development potential or significant existing value the proposal is to grant a long lease. This means that Portland Town Council will potentially retain any uplift in value that may arise from a change of use or development consent in respect of all of the assets transferred freehold.
- 12.2 Some assets are not proposed to transfer to Portland Town Council as per the original committee report on which budgets were set, see Appendix C for list. For those assets now not transferring Dorset Council will need to pick up operational and financial responsibility which would be unbudgeted. Until the legal transfer for the revised asset list is complete Dorset Council continues to retain a certain level of liability. There is still a risk that some of these assets may not finally transfer to Portland Town Council and they would fall back to the unbudgeted responsibility of Dorset Council. It is possible that terms of transfer may require variations to accommodate short term revenue costs.

12.3 As the financial transfer of monies to Portland Town Council has happened ahead of the legal asset transfer this could cause an issue if some asset transfers do not go ahead as planned.

**13. Resourcing**

13.1 Estates & legal work including liaison with Portland Town Council and their appointed solicitors to complete the transfers.

**Footnote:**

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.