

AGENDA SUPPLEMENT (1)

Meeting: Cabinet
Place: Kennet Room - County Hall, Bythesea Road, Trowbridge,
BA14 8JN
Date: Tuesday 15 January 2019
Time: 9.30 am

The Agenda for the above meeting was published on 7th January, 2019. Additional documents are now available and are attached to this Agenda Supplement.

Please direct any enquiries on this Agenda to Stuart Figini, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 718221 or email stuart.figini@wiltshire.gov.uk

Press enquiries to Communications on direct lines (01225)713114/713115.

This Agenda and all the documents referred to within it are available on the Council's website at www.wiltshire.gov.uk

7 **Service Devolution & Asset Transfer Package - Devizes (Pages 3 - 92)**

DATE OF PUBLICATION: 9 th January 2019

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Wiltshire Council

Cabinet

15 January 2019

Subject: Service Devolution & Asset Transfer Package - Devizes

Cabinet Member: Councillor Richard Clewer – Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism

Key Decision: Key

Executive Summary

Following the approval of the Service Devolution and Asset Transfer Policy in November 2017 Members and officers of Devizes Town Council and Wiltshire Council have worked to finalise the detailed package of services and associated assets to transfer from Wiltshire Council to Devizes Town Council.

The final package of services and assets to transfer to Devizes Town Council consists of the following:

Services:

- All grounds maintenance services with the Devizes Town Boundary
- All Streetscene services within the Devizes Town Boundary
- Responsibility of amenity land hard areas and assets.
- Responsibility for streetscene assets on the highway
- All tree maintenance for those trees not on the Public Highway
- Management of the weekly market
- Management of the Shambles indoor market
- Management of the woodland parks/nature reserves
- Management of the maintenance on all closed church yards within the town boundary

The responsibility to carry out services and maintenance on all land assets will be discharged by way of an Agency Agreement.

Assets:

- The Shambles Market
- Drews Pond Wood
- Broadleas Woodland
- Devizes Heritage Park, including Byron Road and Newman Road play areas
- Devizes Superloo

- Play areas and surrounding open space land where appropriate:
 - Alan Cobham Road
 - Belvedere Terrace
 - Quakers Walk
 - Brickley Lane
 - Drews Pond Lane
 - Cowslip Close
 - Festival Close
 - Massey Road 1,2,3
 - Palmer Road
 - Quakers Road
 - Spitalcroft Open Space
 - White Horse Way

Section 106

- All S106 monies held or due to Wiltshire Council relating to assets within the Devizes Town boundary will be transferred.

These services and assets meet the criteria set out in the policy and are to be included in this package.

Other

In addition to the above, the following policy exempt assets will also be included in the transfer package on the understanding that the agreed conditions are met:

- The Market Place – This asset will be transferred freehold providing that the agreed conditions are met by the Town Council

Proposal(s)

It is recommended that Cabinet:

- 1) Consider and approve the final list of services and assets listed that will be transferred to Devizes Town Council. The inclusion of any open space land is subject to consideration of any objections received following the advertising of the disposal in accordance with statutory obligations.
- 2) Agree to the transfer of the Market Place Carpark with all associated conditions being met by the Town Council
- 3) Note the net revenue impact to the Council and acknowledge that the Service Devolution programme benefits of cost savings and avoidance will be realised on a cumulative basis as the programme progresses and as more Towns/Parishes complete the process.
- 4) Delegate the implementation of the transfer of assets and the service delegation to Alan Richell, the Growth & Investment Programme Director in consultation with Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism, Cllr Richard Clewer.

Reason for Proposal(s)

To complete the transfer of the package of assets and services to Devizes Town Council.

Alistair Cunningham
Corporate Director

Wiltshire Council

Cabinet

15 January 2019

Subject: Service Devolution & Asset Transfer Package - Devizes

Cabinet Member: Councillor Richard Clewer – Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism

Key Decision: Key

Purpose of Report

To recommend a final package of services and assets to transfer to Devizes Town Council and to provide detailed information in relation to the financial impact this will have on Wiltshire Council.

Relevance to the Council's Business Plan

The council has a Business Plan objective to transfer packages of assets and services, where applicable, to parish and town councils.

Background

Following several decisions made by Wiltshire Council's cabinet (please see appendix 1 for copies of each cabinet report) since 2015 it has been agreed that Wiltshire Council would work with each Town Council to produce a package of services and their associated assets to be devolved to them.

The Following the completion of the Salisbury City package transfer in April 2017 the Service Devolution and Asset Transfer policy was agreed by Cabinet in November 2017 (appendix 2); it sets out clear guidelines for the packages and provides a more streamlined process including the use of standardised service delegation agreements, lease agreements and freehold asset transfer documentation.

In a change to the original premise, assets associated with the transfer of a service will themselves be considered for freehold transfer, in most other cases the asset would become the responsibility of the Town Council via a service delegation agreement. The new policy also lays out criteria for those assets which would not be included in the first instance, e.g: anything considered strategic for the Council, anything with a revenue income (except for Markets) and anything which the Council holds a statutory responsibility to deliver.

From the service perspective, the policy states that the entirety of the service must be devolved to enable the best outcome for the transfer as piecemeal delegations are difficult to manage and risk disparate levels of delivery across the area.

Main Considerations for the Council

The proposal is for the transfer of the following:

- Services
 - All grounds maintenance services with the Devizes Town Boundary (this includes the recently acquired parish of Roundway) as detailed in appendix 3
 - All Streetscene services within the Devizes Town Boundary
 - Responsibility of amenity land hard areas and assets.
 - Responsibility for streetscene assets on the highway
 - All tree maintenance for those trees not on the Public Highway – e.g. trees located on open space land around play areas.
 - Management of the weekly market
 - Management of the Shambles indoor market
 - Management and maintenance of the woodland parks/nature reserves – Drews Pond Wood and Broadleas Woodland
 - Management of the maintenance on all closed church yards within the town boundary

The responsibility to carry out services and maintenance on all land assets will be discharged by way of an Agency Agreement.

The transfer of the Grounds Maintenance and Street Scene services is on the basis of a financial contribution to the existing IdVerde contract until June 2020 or the contract expires. All future amenity and cleaning services within the town boundary will be the responsibility of Devizes Town Council to manage.

- Assets:
 - The Shambles Market (freehold)
 - Drews Pond Wood (freehold)
 - Broadleas Woodland (freehold)
 - Devizes Heritage Park (freehold) – several open spaces detailed in Appendix 4, including Byron Road and Newman Road play areas
 - Devizes Superloo – extend to 125 yr lease
 - Play areas and surrounding open space land where appropriate:
 - Alan Cobham Road (whole freehold title, includes Osmund Road play area)
 - Belvedere Terrace (whole freehold title)
 - Quakers Walk (Part of freehold title only referring to play area Keepers Road)
 - Brickley Lane (whole freehold title)
 - Drews Pond Lane (whole freehold title)
 - Cowslip Close (whole freehold title)
 - Festival Close (freehold of play area only)
 - Massey Road 1,2,3 (freehold of play areas only)

- Palmer Road 1 (freehold of play area only)
- Quakers Road 1 (freehold of play area only)
- Spitalcroft Open Space (whole freehold title)
- White Horse Way (freehold of play area only)

The above list has been compiled on the assumption that there are no complex legal constraints on the assets which would prevent a freehold transfer being undertaken. In such circumstances the Town Council will be given the most appropriate form of responsibility. i.e. lease or licence.

- Section 106

Asset	S106 Value
Brickley Lane	40,900.00
Victoria Road	27,900.00
Spitalcroft	107,800.00
Quakers Walk	296,400.00

- Policy Exceptions

In addition to the above, the following policy exempt assets will also be included in the transfer package on the understanding that the agreed conditions are met:

- The Market Place – This asset will be transferred freehold providing that the current parking arrangements are de-commissioned and the space converted for community use. Non-chargeable parking (blue badge holders/ taxis / coach drop-off) can be included on an ancillary basis; subject to negotiation between the parties. The time scale for these works will be negotiated with the Town Council, but all standard public parking will cease from the 1st April 2019

Transfer of Funding

There will be no transfer of Wiltshire Council funding as part of this package.

There will however be a financial contribution of £170,000 per annum (pro rata from April 2020) from Devizes Town Council to Wiltshire Council in lieu of a novated contract with IdVerde. This arrangement will continue until June 2020, or the current contract expires.

Resources

Significant resource from Legal, Finance, Programme Office and Strategic Asset and Facilities Management (SA&FM) will be required to complete the transfer to Devizes Town Council, due to necessary due diligence to ensure transfer of service and assets can proceed.

Overview & Scrutiny Engagement

In November 2017 Overview and Scrutiny Management Select Committee (OSMC) undertook a scrutiny review of the revised Asset and Service Devolution and Community Asset Transfer Policy, prior to its adoption by Cabinet.

Safeguarding Implications

None

Public Health Implications

This proposal will have a number of positive public health implications as it allows the Town Council to manage and enhance the local community services at a local level. A good example would be the redevelopment of the currently closed play areas in the Town

Procurement Implications

This proposal affects current contracts and will result in a reduced requirement in future contracts. The procurement team will be involved further where appropriate.

Equalities Impact of the Proposal (detailing conclusions identified from Equality Analysis, sections 4 and 5)

The transfer of assets raises no issues in respect of equalities impact.

Environmental and Climate Change Considerations

None

Risk Assessment

Significant resources will be required to complete the work for the transfer.

Risks that may arise if the proposed decision and related work is not taken

- Reduction in budgets due to efficiencies may result in a reduction of services being offered by the Council and potential closures of amenity spaces.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

- A removal of the grounds maintenance for the Devizes area may result in a pro-rata increased costs of the overall services, as overheads will not be reduced and spread across the remaining service
- Customers will be uncertain about responsibilities in areas, but experience from Salisbury shows this can be overcome and a positive working relationship will be formed with Devizes Town Council

- Freehold titles may contain restrictions that impact on asset transfer, but these can be overcome by detailed due diligence and dialogue between the parties
- Contribution for ground maintenance is not sufficient to cover the actual costs of the service being delivered....

Financial Implications

Ongoing Revenue

Financial analysis has been conducted to examine the impact for the council. The financial model is based on the following assumptions:

The model assumes the transfer will take effect from 1st April 2019.

Devizes Town Council will pay a revenue contribution of £170,000 per annum from 1st April 2019 (pro-rata from April 2020) until the 31st May 2020 or end the of the current IdVerde contract.

HR, Legal, Finance, SA&FM, Highways staff time costs for processing the transfer are excluded from the table below.

The table below shows the revenue impact.

	Income	Expenditure	Net
Market Place		15,400	15,400
Outdoor Market	-70,200		-70,200
The Shambles	-81,500		-81,500
The Shambles		14,400	14,400
Closed Churchyards		1,700	1,700
Idverde Contract	-31,400	170,000	138,600
Total	-183,100	201,500	18,400

Overall there would be a Net Revenue **budget saving of £18,400.**

In January 2018, the Cabinet approved a proposal (Appendix 5) to begin charging within all Wiltshire Council owned and operated car parks including those previously offering free short stay parking of which the Market Place car park was one. The projected revenue increase per annum for Devizes was approximately £95,000. As a result of the transfer and decommissioning of the free parking on the Market Place this will now be achieved through displacement into other chargeable car parks. This has not been included in the above package as it is already budgeted for as an increased income stream into the car parking revenue account.

Capital

The assets listed represent a potential capital receipt of approximately £454,000 that cannot be realised by Wiltshire Council if the transfer is approved.

Section 106 monies

Around £7,000 of Off Site Contribution capital section 106 monies would transfer to Devizes Town Council.

Around £473,000 of commuted sum/maintenance money would also transfer to Devizes Town Council.

Legal Implications

Section 123 of the Local Government Act 1972 gives Wiltshire Council the ability to transfer land at less than market value where that transfer helps secure the promotion of the economic, social, or environmental wellbeing of the area.

The power of the Secretary of State to give a general consent for the purpose of land disposals by local authorities is set out in section 128 (1) of the LGA 1972. Specific consent is not required for the disposal of any interest in land that the authority considers will help it to secure the promotion or improvement of the economic, social or environmental wellbeing of its area.

Wiltshire Council cannot dispose of its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State. Disposal at less than best consideration is always subject to the condition that the undervalue does not exceed £2 million. Therefore, all proposed transactions where the aggregate of "undervalue" exceeds the £2 million threshold will require the specific consent of the Secretary of State.

Whilst the majority of the sites will have a de-minimus value, there are some sites that may attract a value. Social value has not been determined as part of the package, but the overall view is that these services should be delivered at a local level and for enhancement, therefore generating social value.

The model community asset transfer and leasehold documentation is drafted on the basis that the use of the property will continue for the benefit of the local community.

- **Open Space Land**

A local authority has a statutory duty to advertise its intention to dispose of open space land in a local newspaper for two consecutive weeks and to consider objections. This will be done before any final decision is taken on the disposal so that proper consideration is given to the responses that are received. This process will need to be factored into the transfer programme for Devizes Town Council.

- **State Aid**

European State aid law is intended to avoid any state aided subsidies which could distort competition and affect trade between members states. State aid law can potentially apply to town and parish councils and third sector organisations when they receive community assets

and/or financial contributions from Wiltshire Council towards the cost of delivering delegated services. State aid can only be found in the situation where where the organisation receiving the aid acts on a market. Local Authorities (as well as charities) can in some of their functions be assessed as acting on a market. This assessment is unlikely to be made where the recipient is engaged in carrying out not for profit activities to meet local community need. However, the use of each individual asset or financial contribution must be considered, and Legal Services must be engaged to advise Wiltshire Council on the State aid implications for the transfer package.

If State aid has been granted without European Commission approval (either through a separate notification or by following the terms of the relevant exemption) this would be illegal State aid. The European Commission has the ability to make such orders as to correct the perceived market distortion caused by the illegal aid. This could take the form of an order to the recipient to return to Wiltshire Council any assets and/or repay the value of any financial aid, plus interest from the date of the aid to the date of repayment.

Even where there is no illegal State aid in favour of the recipient, care needs to be taken to avoid accidental leakage of aid in the future when the recipient itself deals with the asset or funding. For instance, care needs to be taken by the recipient to avoid giving a third party a competitive advantage by letting a community asset at below market rate, and an EU compliant procurement process must be followed by the recipient when engaging any third party to carry out delegated services. There are clauses in the model legal documentation between Wiltshire Council and the recipient to deal with this.

- **Transfer of employees**

There are two different types of transfer of employees under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) – Service Provision Change or a Transfer of Whole or Part of an Undertaking.

It will be necessary to consider the application or otherwise of TUPE having regard to the circumstances of the case and whether for example redundancy costs may be payable in the event that TUPE doesn't apply. These costs will need to be identified and form part of the financial analysis of the proposed service devolution.

Section 101 of the Local Government Act 1972 and supporting legislation (the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012) allows the Council to decide to delegate certain functions relating to services to town and parish councils, including Devizes Town Council.

There are two levels of service delegation proposed under this report depending on the function involved:

Delegation of service delivery. This type of delegation applies for the Grounds Maintenance and Streetscene service and may be discharged by way of an Agency Arrangement. The function is a statutory function which remains the responsibility of Wiltshire Council, however the delivery of the service may be transferred to Devizes Town Council who will become responsible for the delivery contracted out services. This arrangement must be

by way of a written agreement which clearly defines the services being transferred and any conditions to which the transfer is subject.

Delegation of service responsibility. The service (and any land, buildings or assets that are required to run the service locally) will transfer to Devizes Town Council. This type of delegation can only apply where Wiltshire Council has a high degree of discretion about the provision of the service. Here, it will apply to maintenance of public conveniences, the Markets service and Woodland Park/Countryside services. Wiltshire Council will cease to be responsible and accountable for the delivery of these services.

It is confirmed that Wiltshire Council has the power to delegate the proposed services by s.101 of the Local Government Act 1972. There is the power for Devizes Town Council to deliver the service however it is for Devizes Town Council to determine its own ability to deliver the service and this was considered at a formal meeting of the Town Council before deciding to accept the service delegation

Officers will instruct Legal Services to draft the required Agency Agreement, so that terms relating to all functions to be delegated can be negotiated with Devizes Town Council.

In respect of the Section 106 monies a process will need to be defined to ensure that there is a clear understanding of what it can be used for and the date by which it must be spent with the parties entering into legal documentation to set out the arrangements.

Proposal 'd' below in this report; Delegate the implementation of the transfer of assets and the service delegation to Alan Richell, the Growth & Investment Programme Director in consultation with Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism, Cllr Richard Clewer, refers to Paragraph 2.2 of the Constitution which sets out the issues that must be properly considered and completed when exercising delegated powers, including:

- The views of the relevant Cabinet Member, Committee Chairman and Area Boards following the application of the consultation criteria set out in the Constitution;
- The implication of any Council policy initiative, strategy or procedure. Officers need to be aware of any potential impact of a delegated decision on other services. In such cases, consultation with officers, relevant Cabinet Members(s) or Committee Chairman from any affected portfolio and local members, where the issue relates to a specific area, should take place;
- The range of available options;
- The staffing, financial and legal implications;
- The assessment of any associated risks in accordance with the Council's risk management strategy

The above list is not exhaustive. Please refer to Part 3 Section D Scheme of Delegation to Officers of the Constitution for a complete list of the issues that must be taken into consideration.

Options Considered

None

Conclusions

The council can move towards achieving its Business Plan object to transfer packages of assets and services to parish and town councils with this transfer.

Proposal

It is recommended that Cabinet:

- a. Consider and approve the final list of assets and services listed that will be transferred to Devizes Town Council
- b. Approve the transfer of the Market Place Carpark required pedestrianisation and other associated conditions being met by the Town Council
- c. Note the net revenue impact to the Council and acknowledge that the Service Devolution programme benefits of cost savings and avoidance will be realised on a cumulative basis as the programme progresses and as more Towns/Parishes complete the process.
- d. Delegate the implementation of the transfer of assets and the service delegation to Alan Richell, the Growth & Investment Programme Director in consultation with Cabinet Member for Housing, Corporate Services, Arts, Heritage and Tourism, Cllr Richard Clewer.

Alistair Cunningham
Corporate Director

Report Author: Hannah Day Programme Office

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3rd December 2018

Background Papers

The following documents have been relied on in the preparation of this report: None

Appendices

Appendix 1 – Cabinet Papers

Appendix 2 – Service Devolution Policy

Appendix 3 – Grounds maintenance & Streetscene specifications

Appendix 4 – Plans of play areas and open spaces for transfer

Appendix 5 – Cabinet papers - Jan 2018 - Amendments to the Wiltshire Local Transport Plan (LTP) 2011-2026 - Car Parking Strategy

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Appendix 1

See attached paper

Appendix 2

See attached paper

Appendix 3 - Grounds maintenance & Streetscene specifications

Soft Maintenance Services

Task	Comment	Conditions
Litter Picking	<ul style="list-style-type: none"> • Litter examples include: • Dead animals (road kill) • Dog/ animal faeces • Cigarette waste & cigarette packets • Beverage and drinks containers • Food containers or utensils • Publications, magazines and newspapers • Shopping and other bags • Illegal deposits of bagged commercial and household waste which shall be cleared as fly tipping, see further below • Removal of pigeon droppings from pathways and footways • Removal of fallen branches, wood, metal and plastic objects • Removal of leaf and blossom falls to an approved programme • Other similar waste types up to 1 cubic meter 	Must be carried out on both Amenity Land and the Highway
Emptying of Litter Bins		Must be carried out on both Amenity Land and the Highway
Removal of Dead Animals on the Highway		Must be carried out on both Amenity Land and the Highway
Removal of Fly Tipping (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway
Removal of Fly Posting (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway
Graffiti Removal (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway
Shopping Trolley Removal (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway

Task	Comment	Conditions
Leaf Clearance		Must be carried out on both Amenity Land and the Highway
Balancing ponds, amenity footpaths, Streetscene assets and water courses	Monitor the condition and highlight any health and safety concerns on amenity footpaths, ponds, ditches and any amenity asset and effect their reasonable repair	Must be carried out on Amenity Land
Park and Highway Furniture	Monitor the condition of the furniture and highlight any health and safety concerns and effect their reasonable repair/replacement (subject on each occasion to WC's permission to repair/replace highway furniture)	Must be carried out on both Amenity Land and the Highway. WC's prior written permission must be given in respect of repairing and replacing Highway furniture.
Grounds Maintenance	Shrub Bed Maintenance, Maintenance of Shelterbelt/Plantation Areas/ Hedge Maintenance/ Tree/ Herbaceous Borders and any soft area maintenance.	Must be carried out on Amenity Land and the Highway. WC's consent to maintain the verges of the Highway is hereby given.
Grass Maintenance	<ul style="list-style-type: none"> • Sheltered Housing Schemes • High amenity areas • General grass areas • Low Amenity areas • Highway verge areas • Rough grass areas • Flail grass areas • Wild flower/conservation areas 	Must be carried out on the Amenity Land and the verges of the Highway. WC's consent to maintain the verges of the Highway is hereby given.
Sports Pitch Maintenance (Football and Rugby)		Must be carried out on Amenity Land
Cricket Pitch Maintenance		Must be carried out on Amenity Land
Countryside	Litter clearance and emptying of litter bins	Must be carried out on Amenity Land
Woodlands and Countryside Site	Scavenging and cleaning and/or maintenance	Must be carried out on Amenity Land
Play Areas, Multiple Use Games Areas (MUGA) and Skate Park Inspection and Maintenance		Must be carried out on Amenity Land

Task	Comment	Conditions
Allotments	General up keep and maintenance including: <ul style="list-style-type: none"> • Boundary fencing • Gates and Hedges • Tracks • Car parks • Grass areas and • Footpaths 	Must be carried out on Amenity Land (allotments)
Open Cemeteries	General up keep and maintenance including memorial testing	Must be carried out on Amenity Land (cemeteries)
Closed Churchyards	General up keep and maintenance including memorial testing	Must be carried out on Amenity Land (closed churchyards)
Car Parks and hard areas maintained by WC immediately prior to the Transfer Date	Maintenance of car parks – grounds and street cleaning (as per Idverde Scope)	Must be carried out on Amenity Land and hard areas subject to the exclusions in Column 1
Centre Litter Picking and Sweeping		Must be carried out on Amenity Land and the Highway
Weed Control (amenity hard areas and highways)	Responsibility for all weeds on the highways and service delegated areas	Must be carried out on Amenity Land and the Highway
Bus shelter maintenance	Litter collection and cleaning (graffiti, fly posting, moss etc. removal)	Must be carried out on Amenity Land and the Highway

Hard Area Maintenance Services

Type of Land	
The public open space where the hard asset is managed is:	<ul style="list-style-type: none"> • public gardens; • land used for the purposes of public recreation; • parks; • natural and semi-natural urban greenspaces • derelict open land; • sports pitches; • outdoor sports areas; • play provision; • amenity greenspace; • play areas; • skateboard parks; • outdoor basketball hoops; • and other more informal area (e.g. 'hanging out' areas, teenage shelters); • accessible countryside in urban fringe areas; • cemeteries; • closed churchyards.
For the avoidance of doubt, hard asset management would not be delegated for:	<ul style="list-style-type: none"> • Play & Display Car Parks • Highway assets (without prior agreement – see below) • Campus or Hub areas • Housing Revenue Areas
<p>The concept of the delegation would be for hard asset maintenance to be as an asset transfer.</p> <p>As such anything on the asset and anything beneath (but not adopted assets) would become the responsibility of the local council.</p> <p>Hard assets would include: fences; walls; paths; lighting; seats; fixed equipment etc.</p>	

Appendix 4

See attached paper

Appendix 5

See Cabinet agenda pack for the meeting held on 30th January 2018 [here](#).

Agenda item

Salisbury City Council Asset Transfer – Cabinet Approval of Transfer from Wiltshire Council

- [Meeting of Cabinet, Tuesday, 19th April, 2016 9.30 am \(Item 53.\)](#)
- [View the background to item 53.](#)

Report by Dr Carlton Brand, Corporate Director

Minutes:

Councillor Dick Tonge, Cabinet Member for Finance, presented a report which sought approval of a final package of assets and services to be transferred to Salisbury City Council; provided detailed information in relation to the financial impact this would have on Wiltshire Council; and recommended the process and timescale for other potential asset and service transfers to parish and town councils.

Issues highlighted in the course of the presentation and discussion included: the number of services and properties to transfer; that some land tenure and ownership issues had proved intractable and costly to resolve, so the Council had agreed to agency agreements as an alternative to full transfer of ownership; the s106 monies to be transferred, and the restrictions placed on these; the ambitions of other towns, and how the Council had learnt from the experience thus far; the revenue implications to the Councils; the support that can be provided to Councils during the transfer; that the aim was for packages to be broadly cost neutral for both parties, and that this meant that assets and liabilities would be devolved.

Cllr Dick Tonge, in giving his presentation explained that the deal for Salisbury, particularly in relation to the funding of CCTV assets, may not be replicated in other towns. Cllr Tonge also made a minor amendment to recommendation (e).

Cllr John Thomson state, in response to a question from Cllr Bob Jones MBE, that discussions with Cricklade on the transfer of some assets were being dealt with separately and he was open to discussions about timescales.

The Leader, in response to a question from Cllr Jon Hubbard explained that she would be happy to arrange discussions about the funding of improvement works for land that had not yet transferred from the ownership of Wiltshire Council.

Cllr Richard Clewer stated that he welcomed the proposals and the opportunities it afforded the City Council.

Cllr Atiqul Hoque expressed his support for the proposals but was concerned at the time it was taking.

The Leader expressed concern that Salisbury City Council were not planning to consider the matter until July, which she felt was an undue delay; and emphasised that the decision on the Asset Transfer was not contingent on any decision regarding Community Governance Review of parish boundaries.

She asked that no more officer time be spent on this issue until a decision had been made by Salisbury City Council. Acknowledging that the Corporate Director had already written to the City Council's clerk, the Leader stated that she would also write to Leader of the City Council to further emphasise these issues.


Resolved

- 1. To approve the final list of assets and services listed that will be transferred to Salisbury City Council;**
- 2. To note the net revenue impact to the council;**
- 3. To approve the service transfer budget principle of "tapering" to zero cost over 4 years;**
- 4. To delegate the implementation of the transfer of properties and the service delegation to a Corporate Director following consultation with the Cabinet Member for Finance;**
- 5. To use the work and model established for Salisbury for further transfers with indicative phasing as shown in on page 90 and 92 of the report.**

Reason for Decision

To complete the transfer of the package of assets and services to Salisbury City Council and ensure an agreed process is in place for other asset and services transfer to parish and town councils.

Supporting documents:

- [Salisbury City Council Asset Transfer – Cabinet Approval of Transfer from Wiltshire Council, item 53.](#)  PDF 189 KB

Contact details

[Contact Wiltshire Council](#)

Write to us or call us

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Agenda and minutes

Cabinet

Tuesday, 21st July, 2015 10.30 am


- [Attendance details](#)
- [Agenda frontsheet](#)  PDF 147 KB
- [Agenda reports pack](#)
- [Agenda Supplement 1 - Cabinet - 21/7/15](#)  PDF 233 KB
- [Printed minutes](#)  PDF 250 KB


Venue: The Kennet Room - County Hall, Trowbridge BA14 8JN. [View directions](#)

Contact: William Oulton Email: william.oulton@wiltshire.gov.uk

Webcast: [View the webcast](#)

Items

82.	<p>Apologies</p> <p>Additional documents:</p> <ul style="list-style-type: none"> • Webcast for 82. <p>Minutes:</p> <p>Apologies were received from Cllr Jane Scott.</p> <p>Note: Vice-Chairman, Cllr Jon Thomson, was in the chair.</p>
83.	<p>Minutes of the previous meetings</p> <p>To confirm and sign the minutes of the Cabinet meetings held on 16 June 2015 and 9 July 2015. The minutes for the special meeting on the 9th are to follow.</p> <p>Supporting documents:</p> <ul style="list-style-type: none"> • Minutes Public Pack, 16/06/2015 Cabinet  PDF 188 KB • Webcast for 83. <p>Minutes:</p> <p>The minutes of the meeting held on 16 June 2015 were presented. It was noted that the minutes of the special meeting of Cabinet held on the 9July 2015 would be presented to the next ordinary meeting.</p>





	<p>Resolved:</p> <p>To approve as a correct record and sign the minutes of the meeting held on 16 June 2015.</p>
84.	<p>Declarations of Interest</p> <p>To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.</p> <p>Additional documents:</p> <ul style="list-style-type: none"> • Webcast for 84. <p>Minutes:</p> <p>There were no declarations of interest.</p>
85.	<p>Leader's announcements</p> <p>Additional documents:</p> <ul style="list-style-type: none"> • Webcast for 85. <p>Minutes:</p> <p>There were no announcements.</p>
86.	<p>Public participation and Questions from Councillors</p> <p>The Council welcomes contributions from members of the public. This meeting is open to the public, who may ask a question or make a statement. Questions may also be asked by members of the Council. Written notice of questions or statements should be given to William Oulton of Democratic Services by 12.00 noon on Thursday 16 July 2015. Anyone wishing to ask a question or make a statement should contact the officer named above.</p> <p>Supporting documents:</p> <ul style="list-style-type: none"> • Question and Response - Iris Thompson  PDF 59 KB • Webcast for 86. <p>Minutes:</p> <p>The Deputy Leader drew the meeting's attention to the question received from Iris Thompson. The questions and responses were included in an updated Agenda Supplement published prior to the meeting.</p> <p>Councillor Philip Whitehead stated, in response to a supplementary question from Mrs Thompson, that the advice received from the Council's consultants and engineers was that the scheme as designed was safe; the Council would review the scheme once it had been completed to ascertain if any mitigating measures were required.</p>

The Deputy Leader added that whilst he understood there was a difference of opinion on the matter, he did not think the Council could respond further than it had already done to assuage Mrs Thompson's concerns.

87. Draft Annual Governance Statement 2014-15

Report by Dr Carlton Brand, Corporate Director.

Supporting documents:

- [Report - AGS](#)  PDF 89 KB
- [Report - AGS - Appx 1](#)  PDF 257 KB
- [Report - AGS - Appx 2 Extract Printed minutes 23062015 1030 Audit](#)  PDF 56 KB
- [Report - AGS - Appx 2 Extract Printed Standards Committee](#)  PDF 50 KB
- [Webcast for 87.](#)

Minutes:

CLlr Dick Tonge, Cabinet Member for Finance, presented the report which asked Cabinet to consider a draft Annual Governance Statement for 2014-15 for comment before final approval is sought from the Audit Committee on 29 July 2015.

In response to a question from CLlr Jon Hubbard regarding the reduction in budget for Councillor Development, CLlrs Stuart Wheeler and CLlr Dick Tonge stated that CLlr Alison Bucknell, the Portfolio Holder, was working to focus the programme on identifiable development needs rather than courses of a more general nature.

Resolved

- 1. To receive the draft AGS as set out in Appendix 1; and**
- 2. To note that the draft AGS will be revised in the light of any comments by Cabinet and ongoing work by the Governance Assurance Group before final approval by the Audit Committee and publication with the Statement of Accounts at the end of July 2015.**

Reason for Decision:



To prepare the AGS 2014-15 for publication in accordance with the requirements of the Audit and Accounts Regulations 2011.

88. Statement of Accounts



Report by Carolyn Godfrey, Corporate Director.

Supporting documents:

- [Report - Statement of Accounts](#)  PDF 83 KB
- [Report - Statement of Accounts Appx](#)  PDF 420 KB
- [Webcast for 88.](#)

Minutes:

Cllr Dick Tonge, Cabinet Member for Finance, presented the report which presented the draft Statement of Accounts in respect of the 2014/2015 financial year for Wiltshire Council.

In response to a question from Cllr Jon Hubbard, Michael Hudson, the s151 Officer, stated that national accounting rules required Councils to reflect any changes to pension reserve requirements in the balance sheet. As the matter required a more technical answer, a written answer would be provided.

Resolved

To receive and note the draft Statement of Accounts for 2014/2015.

Reason for Decision:


The Cabinet are aware of the Statement of Accounts for 2014/2015.

89. Salisbury Asset Transfer



Report by Dr Carlton Brand, Corporate Director.

Supporting documents:

- [FINAL Cabinet Salisbury CAT \(7\)](#)  PDF 157 KB
- [Webcast for 89.](#)

Minutes:

Cllr Dick Tonge, Cabinet Member for Finance, presented the report which outlined the opportunity, scope and risks associated with asset transfer and service delegation to Salisbury City Council; and asked Cabinet to agree to the scope of the transfer and services and types of asset involved.

The meeting was addressed by Cllr Mathew Deane of Salisbury City Council who expressed the City Council's enthusiasm for taking the opportunity presented by the proposed transfer.

In response to a concern raised by Cllr Deane regarding how best to manage the CCTV system, Councillors Dick Tonge and Jon Thomson stated that package should be considered as a whole and that the management of the CCTV system was an issues that should be addressed by the City Council.

Cllr Jonathon Seed made reference to the amount of money spent upgrading the CCTV, and that other communities would welcome similar levels of attention. Cllr Jon Hubbard stated that it was clear that CCTV was a priority for

the City Council, and that he hoped that other communities, when negotiating future transfer deals, would be able to, similarly, address their own priorities during negotiations.

Cllr Richard Clewer stated that he hoped that the transfer of the market would allow more events to promote visitors and stimulate economic development.

Resolved

- 1. That Cabinet agree to devolve both assets and services to Salisbury City Council.**
- 2. That Cabinet agree the scope of the transfer to include the following services and assets where there is no strategic need:**
 - a) Assets**
 - **Land (as listed in the report)**
 - **Amenity assets and associated s106 monies (as listed in the report)**
 - **Property (as listed in the report)**
 - b) Services**
 - **CCTV (after investment in the new digital system)**
 - **Shop mobility**
 - **Amenity services**
- 3. That Cabinet note the opportunity for this proposal to act as a model for other town and parish councils.**
- 4. To delegate to the Cabinet members for Property, Planning & Waste and Finance the final list of assets and services to transfer after the due diligence period.**

Reasons for Decisions:

To propose a plan in support of the Business Plan to devolve a cost neutral bundle of assets and services to Salisbury City Council.

90. Urgent Items

Any other items of business, which the Leader agrees to consider as a matter of urgency.

Additional documents:

- [Webcast for 90.](#)

Minutes:

There were no urgent items.

91. Exclusion of the Press and Public

This is to give further notice in accordance with paragraph 5 (4) and 5 (5) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 of the intention to take the following item in private.

To consider passing the following resolution:

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the business specified in Items Numbered 11 and 12 because it is likely that if members of the public were present there would be disclosure to them of exempt information as defined in paragraph 3 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Reason for taking item in private:

Paragraph 3 - information relating to the financial or business affairs of any particular person (including the authority holding that information).

Additional documents:

- [Webcast for 91.](#)

Minutes:**Resolved**

To agree that in accordance with Section 100A(4) of the Local Government Act 1972 to exclude the public from the meeting for the following items of business because it is likely that if members of the public were present there would disclosure to them of exempt information as defined in paragraph 3 of Part I of Schedule 12A to the Act and the public interest in withholding the information outweighs the public interest in disclosing the information to the public.

Reason for taking the item in private:

Paragraph 3 – information relating to the financial information or business affairs of any particular person (including the authority holding that information)

No representations were received as to why this item should not be held in private.

92. Waste Management Contract Award

- [View the reasons why item 92. is restricted](#)



Report by Dr Carlton Brand, Corporate Director.

Minutes:

Councillor Toby Sturgis, Cabinet Member for Strategic Planning (Strategic and Development Management), Property, Waste and Strategic Housing, presented the report which provided an update on the outcome of the tender evaluation process; and sought decisions in accordance with the proposals.

In the course of the presentation and the discussion, the issues discussed included: how risks can be mitigated through negotiation with the contractor; the implications of recent planning decisions; the impact of EU regulations and the market for recyclable material; what information would be presented to future meeting of the Cabinet regarding extant matters; and when Councillors would be informed of the outcome of tenders.

Resolved

- (i) To authorise award of contracts for:**
- **Lot 1 (materials recovery facility for dry recyclable materials)**
 - **Lot 3 (garden waste composting) and**
 - **Lot 4 (landfill or landfill diversion)**
- (ii) To authorise the Associate Director Waste and Environment after receiving advice from the Associate Director Legal and Governance, the Associate Director Finance and the Associate Director Corporate Services to complete the contracts by 30 January 2016 subject to, for Lot 1 only, a decision being made on the collection method to be adopted for the collection of dry recyclables;**
- (iii) To note that the Associate Director Waste and Environment after receiving advice from the Associate Director Legal and Governance, the Associate Director Finance and the Associate Director Corporate Services has invited tenderers for Lot 2 to revise and confirm their tenders based on the reduced opening hours for the household recycling centres to be implemented from 13 July 2015 and tenderers for Lot 5 to submit a variant tender based on a fully co-mingled collection of dry recyclable materials including glass; and**
- (iv) To agree the recommendations numbers iv), v) and vii) as outlined in the report.**

Reason for Decisions:

To enable the council to maintain service delivery for residents, to comply with its statutory duties to collect and dispose of waste and to continue to progress towards achieving statutory targets once current contracts expire.

93. Highways and Streetscene Contract

- [View the reasons why item 93. is restricted](#)



Report by Dr Carlton Brand, Corporate Director.

Minutes:

Councillor Philip Whitehead, Cabinet Member for Highways and Transport, presented the report which asked Cabinet to review the contract highways and streetscene.

Resolved

To agree the recommendations as set out in the report.

Reason for Decision:

As set out in the report.

Contact details

[Contact Wiltshire Council](#)

Write to us or call us

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Wiltshire Council

Cabinet

7 November 2017

Subject: Asset and Service Devolution and Community Asset Transfer Policy

Cabinet Member: Cllr Philip Whitehead, Cabinet Member for Finance

Key Decision: Yes

Executive Summary

The refreshed Service Devolution and Asset Transfer Policy will enable the Council to consider the transfer of packages of services and assets to town and parish councils

This report seeks an endorsement of the policy framework and process to facilitate such package transfers, noting that in doing so it will not affect the current process for individual Community Asset Transfers to community groups as facilitated through Community Area Boards.

Proposal

Cabinet is recommended to:

1. Endorse the Service Devolution and Asset Transfer Policy and principals as set out in this report for the transfer of appropriate packages of services and related assets to Town and Parish Councils.

Reason for Proposal

Following the completion of a substantial package of services and assets to Salisbury City Council, a revised approach is being proposed to streamline the process, reduce the cost, time and resources required to facilitate future package transfers of services and related assets

Dr Carlton Brand, Corporate Director

Wiltshire Council**Cabinet****7 November 2017**

Subject: Asset and Service Devolution and Community Asset Transfer Policy**Cabinet Member: Cllr Philip Whitehead, Cabinet Member for Finance****Key Decision: Yes**

Purpose of Report

1. To seek Cabinet's endorsement of the draft policy and principals (annex A) for the transfer of appropriate packages of services and related assets to Town and Parish Councils.

Vision

2. Wiltshire Council is committed to continuing to improve and enhance the outcomes of people's lives and businesses in Wiltshire working closely with its communities and partners. The council's business plan 2017 – 2027 emphasises the desire for communities and residents in Wiltshire to continue to feel they can take responsibility for their well-being, have positive relationships with each other to get involved and influence and shape their own communities
3. This draft policy supports this commitment encouraging local town and parish councils to take responsibility for their well-being, build positive relationships and to get involved, influence and act on what's best for their own communities. It sets out a framework to enable the devolvement of those services and assets best placed to be delivered by local communities at the Town Council level.
4. The council recognises that the devolution of assets and services to local communities, town and parish councils makes a significant contribution towards enabling them to be stronger, more resilient and sustainable. Experience gained from a number of asset and service transfers completed to date, has shown that the development of this policy presents significant opportunities to create stronger, more cohesive and sustainable communities. It enhances the role of town and parish councils; enables the use of buildings to be enhanced with the ability to modify them to embrace local needs; the ability to source and secure additional resources from sources not available to Wiltshire Council to do so as well as the ability to deliver and modify services to match the needs and expectations of local communities.

Background

5. This draft policy builds on relevant policies developed over the last 5 years. It also recognizes and considers significant legislative requirements and supports central governments commitments to devolve assets and services to local community groups.
6. The objectives for the council in reviewing this policy are to:
 - Enable Town and Parish councils to be stronger, more resilient and sustainable, providing the opportunity for buildings to be enhanced with the ability to modify them to embrace local needs; the ability to source and secure additional resources from sources not available to Wiltshire Council as well as the ability to deliver and modify services to match the needs and expectations of local communities. (i.e. markets; grounds maintenance; grass cutting; play areas, parks and open spaces)
 - Agree a package of services and assets that is agreeable to both parties

Main Considerations for the Council

7. The intention is to identify a single block of services and assets for our main town councils, thereafter to be followed by smaller packages for our parish councils
8. The types and nature of assets and or services that will transfer are set out in the policy. The Transfer of property assets are likely to be associated with transfers of services, where agreed between the parties. Assets that are unlikely to be considered for devolution are:

Assets held for investment purposes - both assets that generate an immediate income to Wiltshire Council and those held for future capital realisations
Assets of a rural nature - given Wiltshire Council's roles as a small holdings authority
Assets held with Wiltshire Council's Housing Revenue Account (HRA) - utilised to deliver the statutory housing functions
Vacant land or buildings that can generate a capital receipt in excess of de-minimus level for capital accounting purposes - with capital receipts required to fund the capital programme of Wiltshire Council
Land held for future development of Wiltshire Council or partner schemes - as it would not be financially prudent to devolve the land and be required to repurchase in the future
Education and statutory early years premises - due to Wiltshire Council's roles as a Local Authority for education purposes
Car parks defined by Wiltshire Council for retention under the 2015 Parking Review or any subsequent reviews
Land held or adopted as public highway - due to Wiltshire Council's role as Highway Authority

9. When considering the freehold transfer of the asset, the decision-making process should include a statement qualifying the economic, social or environmental well-being generated from the disposal. This should be

quantified as much as possible to ensure that the *General Consents Order* requirements have been met. In circumstances where services are being delegated, the value of the service will be offset against the value of the assets.

10. The transfer will not normally include a provision to offer the asset back to Wiltshire Council **if it is no longer needed for community use** (“the reverter”) unless there are compelling legal reasons for doing so.

If the transfer needs to contain the reverter in the circumstances referred to above, Wiltshire Council will not be under any obligation in the transfer to accept the asset back. However, Wiltshire Council will need to assess at the time if there are still wider legal issues that mean Wiltshire Council should take the land back. If Wiltshire Council decides to take the asset back it will be under no obligation to continue to use it for community purposes, furthermore if Wiltshire Council disposes of the asset at a future date there will be no requirement to split the capital receipt with the Town or Parish Council.

11. The transfer will include a provision whereby should town and parish councils dispose of those assets for non-community uses, a 50% split of the capital receipt will be payable to Wiltshire Council.

12. Should any land or building that would not normally be devolved, as set out in the draft policy, be requested by a town or parish council and the devolution considered acceptable to Wiltshire Council, an exception report will be produced for Wiltshire Council’s Cabinet setting out the reasons for the transfer. The report should include considerations of an economic, social or environmental well-being nature.

Open Space Land

13. A local authority has a statutory duty to advertise its intention to dispose of open space land in a local newspaper for two consecutive weeks and to consider objections. This should be done before any final decision is taken on the disposal, so that proper consideration is given to the responses that are received. This process will need to be factored into the transfer programme for each town and parish council.

Service Delegation

14. There are many types of land maintained by the council which cannot or should not have the ownership transferred to the local community, but the service on them could be delegated. The reasons for which are set out in the policy. In these cases a **service delegation** on those areas will allow the local community to set the standard and deliver the Amenity Maintenance Services within their defined boundary.
15. It should be noted though that whilst the service delegation will facilitate the quick hand over of the delivery of the service by the town or parish council it will not resolve legal issues, such as:

- a. any historic land issues, for example, outstanding land transfers to the former districts (now Wiltshire Council as statutory successor). Therefore, access to the land for maintenance will be at the risk of the town and parish council (they will not have any legal property interest in the land in question) with Wiltshire Council providing as much information as it has available in respect of any such historic issues.

Depending on requirements of the parties, Wiltshire Council can then work with the town and parish councils to resolve any such issues.

- b. entering into this type of agreement without the obligation to transfer would mean that the town or parish council would have a right to terminate if they for whatever reason chose to step away (we would be unlikely to be able to enforce an indefinite contractual obligation). If such termination was exercised then there is a real risk that the maintenance obligations and attendant costs would fall back to Wiltshire Council and we may be obliged to honour these due to public expectations. This would defeat one of the purposes of the transfer. However, in such cases there is a possibility that the council would only commit to undertake the minimum statutory level of provision
 - c. Land ownership responsibilities remain with the Council. Therefore, even though the town or parish council will have taken over management responsibilities for the land Wiltshire Council will remain the registered owner at the Land Registry and could still be liable for any injury/damage caused by a failure to maintain the land.
 - d. Over time the underlying status of ownership becomes blurred and when some legal requirement needs to be exercised there could be confusion and/or dispute. The ambiguity over ownership could lead to significant officer/member time at a future date if a dispute arises.
16. The delegation of the services will not affect any rights Wiltshire Council may have to dispose of, transfer, assign, lease or otherwise deal with its amenity land in its capacity as freehold owner.
 17. Following the date of transfer of service responsibility this council would not be responsible for delivering any of the services listed in appendix 3 and 4 of the policy. The town or parish council will perform the services within the boundary indefinitely on and from the transfer date to the minimum standards required by any relevant legislation.
 18. The decision thereafter on enhancement to the legal minimum standard of provision of services will be delegated to the relevant town or parish council.
 19. The town or parish council would take responsibility for all consequences: financial, contractual, safety or otherwise for the services delivered and the management of the amenity asset and their services provided on the highway.
 20. In applying the Service Devolution & Asset Transfer Policy it is anticipated that there may be instances where transactions be classified as a *Disposal at less*

than best consideration, as market value of the individual asset or package of assets will not be obtained by Wiltshire Council. These will need to be considered on a case by case basis.

21. Funding of delegated services

- a. Wiltshire Council will offer no staged payments to town and parish council on the transfer of the services, with the recipients being responsible for ensuring that revenue budget is available to fund the services.
- b. To support the revenue costs associated with the services, Wiltshire Council will consider the freehold transfer of assets of social value to town and parish councils, being those assets that deliver a community function by a third party.

Resources

22. The resources required to deliver a structured programme of Service Devolution and Asset Transfers will be assessed once the policy and approach has been considered by cabinet and a draft programme of package transfers has been developed.

Overview and Scrutiny Engagement

23. A rapid scrutiny task group has been scheduled for 2 November to consider the draft policy and will report direct to Cabinet on its views.

Safeguarding Implications

24. None

Public Health Implications

25. None

Procurement Implications

26. None

Equalities Impact of the Proposal

27. None

Environmental and Climate Change Considerations

28. None

Risks that may arise if the proposed decision and related work is not taken

29. Whilst there is a clear intention in favour of transfer of assets to provide local community services in appropriate cases, the Council should consider its statutory and financial obligations as part of any such arrangements.

30. When considering the transfer of assets and land the council will need to consider the effects on other strategic plans.
31. Staffing capacity within this Programme has always been challenging and will need to be considered once the cabinet has considered the draft policy and a draft programme of package transfers has been developed.
32. There may be inequality or perception of inequality and transparency across Wiltshire with varying levels of service being delivered and in some areas local precepts being increased to pay for the additional services in those areas where others have not been increased.
33. Service delegation to town and parish councils without the obligation to transfer would mean that they would have a right to terminate if they for whatever reason chose to step away. If such termination was exercised then there is a real risk that the maintenance obligations and attendant costs would fall back to Wiltshire Council. In such cases there is a possibility that the council would only commit to undertake the minimum statutory level of provision.

Financial Implications

34. The proposals brought forward under this policy will be assessed on individual merits, with the focus being on a reduced level of expenditure to enable savings within the Council's overall financial strategy. If this is not demonstrated then the options will not be able to progress without identifiable alternative funding. Financial assessment and risk will thus form part of all future decision making on individual reviews.
35. Should the freehold of an asset be transferred to a town or parish council, any financial liabilities or obligations will transfer with the building, this includes any grant agreement for funding.
36. In the case of any grant agreements for funding, Legal Services will need to ensure that the original purpose of the funding is continued by the town or parish council with an obligation contained in the legal documentation. In addition, Legal Services will need to ensure that the disposal does not trigger any clawback of the fund (or a proportion of the fund) from the grantor. The position will need to be considered by Legal Services on a case by case basis.

Legal Implications

37. The ownership is unclear on much of the land that is maintained by Wiltshire Council leading to the potential of legal complexities that need to be addressed before the freehold can be transferred
38. **Section 123 Local Government Act 1972**
 - 38.1 Wiltshire Council cannot dispose of its land for a consideration less than the best that can be reasonably obtained in the market, except with the express consent of the Secretary of State.

The power for the Secretary of State to give a general consent for the purpose of land disposals by local authorities is set out in *section 128(1)* of the LGA 1972. Specific consent is not required for the disposal of any interest in land that the authority considers will help it to **secure the promotion or improvement of the economic, social or environmental well-being of its area.**

- 38.2 The model community asset freehold and leasehold documentation is drafted on the basis that the use of the property will continue for the benefit of the local community.
- 38.3 Disposal at less than best consideration is always subject to the condition that the undervalue does not exceed £2 million. Therefore, all proposed transactions where the aggregate of "undervalue" exceeds the £2 million threshold will require the specific consent of the Secretary of State.

Wiltshire Council should obtain the view of a professionally qualified valuer as to the likely amount of the undervalue applicable to each transfer package.

- 38.4 When considering the freehold transfer of the asset, the decision-making process should include a statement qualifying the economic, social or environmental well-being generated from the disposal. This should be quantified as much as possible to ensure that the *General Consents Order* requirements have been met.

39. State Aid

European State aid law is intended to avoid state aided subsidies which could distort competition and affect trade between member states. State aid law can potentially apply to town and parish councils and third sector organisations when they receive community assets and/or financial contributions from Wiltshire Council towards the cost of delivering delegated services. State aid is unlikely to be present where the recipient is engaged in carrying out not for profit activities to meet local community need. However, the use of each individual asset or financial contribution must be considered, and Legal Services must be engaged to advise Wiltshire Council on the State aid implications for each transfer package.

If State aid has been granted without European Commission approval (either through a separate notification or by following the terms of the relevant exemption), this would be illegal State aid. The European Commission can order the recipient to return the illegal State aid to Wiltshire Council. The recipient would be forced to return any assets and repay the value of the aid itself, plus interest from the date of the aid to the date of repayment.

Even where there is no illegal State aid in favour of the recipient, care needs to be taken to avoid accidental leakage of aid in the future when the recipient itself deals with the asset or funding. For instance, care needs to be taken by the recipient to avoid giving a third party a competitive advantage by

letting a community asset at below market rate, and an EU compliant procurement process must be followed by the recipient when engaging any third party to carry out delegated services. There are clauses in the template legal documentation between Wiltshire Council and the recipient to deal with this.

40. Transfer of employees:

There are two different types of transfer of employees under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) – Service Provision Change or a Transfer of Whole or Part of an Undertaking.

It will be necessary to consider the application or otherwise of TUPE having regard to the particular circumstances of the case and whether for example redundancy costs may be payable in the event that TUPE doesn't apply. These costs will need to be identified and form part of the financial analysis of the proposed service devolution.

Where the Council is currently delivering services to Town or Parish Councils which will then be delivered by the Town or Parish Council under a service delegation, any staff employed by Wiltshire Council to deliver these services are likely to transfer from the employment of the Council to the Town or Parish Council under TUPE. This is subject to the requirement that the staff are wholly or mainly assigned to the delivery of the services.

If there are services currently being provided to Town and Parish Councils under a contractual arrangement between the Council and a service provider, there will be no transfer of the service provider's staff to the Town or Parish Council or the Council. This is because the service delegation will result in a change of client which means that TUPE will not apply to transfer the service provider's employees to the Town Council, Parish Council or the Council. However the change of client will also terminate the contractual arrangements between the Council and the service provider. Thus there is a risk that termination costs would be payable by the council to the service provider. This risk may be managed by the Parties entering into a Deed of Novation.

If the ownership of an asset is being transferred e.g an open space which the Council currently provides service to, then under TUPE there will be a transfer of the employment of the Employees who are employed by the Council but only if the employees are wholly or mainly assigned to providing services to the asset being transferred.

However if the council has contracted with a Service Provider to provide the same services to the asset then TUPE will not apply to transfer the employment of staff of the service provider to the Town or Parish Council. This is because the service provider's staff are not employed by the owner (i.e the Council) of the asset being transferred. Again there may be risk of termination costs as highlighted above.

If there are Council employees whose employment transfers to a Town or Parish Council then HR should be involved at an early stage to ensure that

the proper processes required by TUPE are observed.

Options Considered

38. Following many lessons learnt undertaking the Salisbury Community Asset Transfer, a revised approach has been developed to improve the speed and clarity with which packages to Town and Parish Councils can be transferred

Conclusions

39. This paper proposes a revised approach to service devolution and asset transfers that are intended to improve the speed and clarity with which packages to Town and Parish Councils can be transferred
40. The implications of implementing these changes are considered to be necessary to provide the most beneficial outcome for both the Council and local Communities.

Robin Townsend (Director - Corporate Services and Digital)

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Appendices

Draft Policy

Background Papers

None

Service Devolution and Asset Transfer Policy



This policy can be made available in a range of accessible formats if required.

Contents

1. Introduction
2. Background
3. Service and Asset Devolution
 - 3.3 Service Delegation
 - 3.4 Freehold Asset Transfer
4. Review
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Policy Cover Information

Policy number		Version number	0.12	Status	Draft
Implementation lead	Corporate Services			Implementation date	October 2017
Policy approved by				Date approved	
Next review date	April 2020				

Policy Control Sheet

Policy title	Service Devolution and Asset Transfer Policy
Purpose of policy	To provide governance and clarity to how Wiltshire Council manages asset and service devolution to Town and Parish Councils
Policy author(s)	Ian Brown, Head of Environment Services Adrian Hampton, Head of Local Highways Leanne Sykes, Head of Finance Operations Mike Dawson, Strategic Asset Manager Jo Madeley, Property and Planning Legal Team Leader Lauren Ashdown, Business Analyst
Lead Director	Dr Carlton Brand Corporate Director
Target audience	Frontline staff, Town and Parish Council Clerks and members of the public
This policy supersedes	Community Asset Transfer (2009 and updated 2011)
This policy should be read alongside	
Related Procedures	
Monitoring and review lead	Corporate Services
First year review date	April 2020
Subsequent review date	April 2022
Internet link	

1. Introduction

Wiltshire is a thriving and innovative County that continues to build on its tradition to enable its residents to live healthy lives in strong, prosperous communities. Over the last decade the Council, with its partners, has improved the outcomes of people's lives and businesses in Wiltshire.

Wiltshire Council is committed to continuing to improve and enhance the outcomes of people's lives and businesses in Wiltshire working closely with our communities and partners;

The council's business plan 2017 – 2027 emphasises the desire for communities and residents in Wiltshire to continue to feel they can take responsibility for their well-being, have positive relationships with each other to get involved and influence and shape their own communities.

The council recognises that the devolution of assets and services to local communities, town and parish councils makes a significant contribution to enabling them to be stronger, more resilient and sustainable. Experience gained from a number of asset and service transfers completed to date, has shown that the development of this policy presents significant opportunities to create stronger, more cohesive and sustainable communities. It enhances the role of town and parish councils; enables the use of buildings to be enhanced with the ability to modify them to embrace local needs; the ability to source and secure additional resources from sources not available to Wiltshire Council to do so as well as the ability to deliver and modify services to match the needs and expectations of local communities.

This document aims to set out the council's policy for service devolution and asset transfers on the form of packages to Town and Parish councils. All single asset transfers to community groups as facilitated by Community Area Boards will continue to be managed by the approved Community Asset Transfer Policy July 2011.

2. Background

- 2.1. Wiltshire Council will promote and facilitate the devolution of appropriate services and transfer of associated assets (by way of freehold or leasehold) to town and parish councils where it is deemed more appropriate for those assets and services to be delivered by third tier Local Government.
- 2.2. The devolution will seek to take a pragmatic approach to provide the community with the ability to influence the level of service it feels is appropriate. In some instances, only services may be devolved to town and parish councils without the ownership of the land or building being transferred.
- 2.3. This policy builds on relevant policies developed over the last 5 years and sets out Wiltshire Council's approach to service and asset transfers to town and parish councils. It also recognizes and takes into account significant legislative requirements and supports central governments commitments to devolve assets and services to local community groups, summarized in appendix 1.
- 2.4. Wiltshire Council has responsibility for land and buildings through various means:
 - 2.4.1. Owned assets – Wiltshire Council hold either a freehold interest or long lease (usually in excess of 100 year) of the asset;
 - 2.4.2. Dedicated assets – Wiltshire Council has responsibility to maintain land due to a historical contractual obligation but does not have the freehold ownership, for example areas of public open space or play areas under planning agreements; or

- 2.4.3. Statutory responsibility – Wiltshire Council has the responsibility for maintaining assets and provide services under legislations, for example highway land or closed burial grounds.
- 2.5. The disposal of assets by Wiltshire Council broadly fall under two types:
- 2.5.1. Market sales – where “best consideration” is obtained, widely interpreted as the best price/market value (as defined by the *Red Book*).
- 2.5.2. Disposal at less than best consideration - this could either be a transfer for a nominal sum or reduced purchase price but will certainly be lower than the market value.

3. Service and Asset Devolution

- 3.1 The Service and asset devolution package to each Town and Parish Council will differ depending on the services provided and the assets held, however the following principles will be applied initially with any additional elements considered on a town by town basis:
- 3.1.1. Minimum services to be devolved include:
- Grounds Maintenance of all land for which Wiltshire Council has responsibility
 - All Streetscene services currently provided within the boundary of the Town/Parish
 - Weed control with Town/Parish Boundary
 - Maintenance of closed churchyards
- 3.1.2. Minimum core assets to be transferred:
- Play areas
 - Monuments
 - Any area for which section 106 monies are held
 - Any other assets which are not covered by the exemption criteria in Appendix 2
- 3.2. The transfer of the packages will be managed in two ways
- 3.2.1. Service delegation agreement– transfer of responsibility for delivering services currently performed by Wiltshire Council where the Council only has dedicated or statutory responsibility (see 2.4.22 & 2.4.3 above), as there is no asset to transfer.
- 3.2.2 There may also be strategic reasons for Wiltshire Council to retain ownership of the asset but are willing to transfer the responsibility to provide services. Wiltshire Council will consider the transfer of both statutory and discretionary services; although where statutory services have transferred the ultimate responsibility will remain with Wiltshire Council
- 3.2.3 Freehold transfer – transfer of total ownership of the service related asset. subject to certain exceptions – in some cases a freehold transfer of the asset to town and parish councils may not be acceptable to Wiltshire Council due to:

- adjoining / surrounding land not being transferred; and/or
- potential for redevelopment, either with or without Wiltshire Council land, and/or
- historic and/or complex land issues which would make a freehold transfer resource prohibitive to both Wiltshire Council and the Town or Parish Council.

In these cases, (where Wiltshire Council owns the freehold) Wiltshire Council will grant a fixed term tenancy of 7 years (less 5 days) of the asset, subject to appropriate break clauses. (A lease of this length is exempt from s123 “best consideration” tests.)

- there being a large number of small non-strategic open space land parcels.

These are most efficiently and effectively managed via a service delegation agreement. Should the Town or Parish council wish to have these legally transferred it will be the responsibility of that Town or Parish council to undertake all the required due diligence and fund all legal costs.

3.3 Service Delegation

Wiltshire Council recognises certain services are more appropriately delivered by the local community in which they are required. The service delegation of amenity services recognises those activities that are best delivered locally - appendix 3 and 4 detail those services. These amenity services are cross cutting and the service delegation should ensure that the responsibility for delivery of all services is transferred to the local town or parish.

3.3.1 The decision to delegate services to the town or parish council may form part of a package including a freehold transfer or leasehold disposal referred to in section 4.1 OR the service delegation may be offered as a single package approach where there may be reasons for Wiltshire Council to retain the freehold ownership or not grant a lease of the site.

- Wiltshire Council’s statutory services – transfer of service delivery only. Wherever Wiltshire Council decides to transfer a statutory function, Wiltshire Council will retain ultimate responsibility for that function. However, responsibility for delivering the service may be transferred to a town or parish council under clear contractual arrangements. The town or parish council will then become responsible for the delivery of those services in accordance with the terms of the service delegation agreement. In view of the Council’s underlying statutory responsibility, the Council must be able to terminate the service delegation agreement at any time.
- Wiltshire Council’s discretionary services – transfer of responsibility for the services. This type of delegation can only apply where Wiltshire Council has a high degree of discretion about the provision of the service. Wiltshire Council will cease to be responsible and accountable for the delivery of these services. There is also no guarantee that the council would consider re-assuming responsibility or accountability for the service. A clear, written delegation must be made by the

Council and accepted by the town or parish council.

- there being a large number of small non-strategic open space land parcels. These are most efficiently and effectively managed via a service delegation agreement. Should the Town or Parish council wish to have these legally transferred it will be the responsibility of that Town or Parish council to undertake all the required due diligence and fund all legal costs

3.3.2 In some circumstances Wiltshire Council, will only delegate services to town and parish councils rather than devolve assets. Examples of where a service delegation will only be appropriate include

- The council has a statutory obligation, such as highway or a housing authority to provide.
- Land maintained for the benefit of the community by the council, but not owned by the council.
- Land where commuted sums for the maintenance have been paid to the council
- Where income or there is a strategic benefit to the council which would prevent the asset transfer but the soft (green and street) services should be delegated. For example: car parks; main council hubs; campuses etc.
- Where there is only a small area of council owned land, which means the cost of the legal land transfer is prohibitive (negated in the local town or parish council are prepared to fund the transfer).

However, in the above cases a service delegation on those areas will allow the local town or parish to set the standard and deliver the Amenity Maintenance Services within their defined boundary.

3.3.3 Following the date of transfer Wiltshire Council would not be responsible for delivery of any of the services listed in appendix 3 or 46 within the defined boundary. The town or parish council will perform the services within the boundary indefinitely on and from the transfer date to the minimum standards required by any relevant legislation. The decision thereafter on enhancement to the legal minimum standard of provision of services will be delegated to the relevant town or parish council. The town or parish council would take responsibility for all consequences: financial, contractual, safety or otherwise for the services delivered and the management of the amenity asset and their services provided on the highway.

3.3.4 The delegation of services will not affect any rights Wiltshire Council may have to dispose of, transfer, assign, lease or otherwise deal with its amenity land in its capacity as freehold owner.

3.4 Freehold Asset Transfer

3.4.1 The freehold transfer will be drafted on the following basis:

- The transfer will not normally include a provision to offer the asset back to Wiltshire Council **if it is no longer needed for community use** (“the reverter”) unless there are compelling legal reasons for doing so.
- If the transfer needs to contain the reverter in the circumstances referred to above, Wiltshire Council will not be under any obligation in the transfer to accept

the asset back. However, Wiltshire Council will need to assess at the time if there are still wider legal issues that mean Wiltshire Council should take the land back.

- If Wiltshire Council decides to take the asset back it will be under no obligation to continue to use it for community purposes, furthermore if Wiltshire Council disposes of the asset at a future date there will be no requirement to split the capital receipt with the Town or Parish Council.
- The transfer will include a provision whereby should town and parish councils dispose of those assets for non-community uses, a 50% split of the capital receipt will be payable to Wiltshire Council.
- In the case of community buildings and land, the permitted community use is defined in the standard lease or freehold transfer.

3.4.2 When considering the devolution of assets to Town and Parish Councils, the main functions and services together with the financial implications for Wiltshire Council of transfer will be considered. With that in mind, the list of assets that will not be considered for devolution can be seen in Appendix 2.

3.4.2 In some circumstances an asset may result in more than one of the list in Appendix 2 being relevant, and in which case **if any** of the above should apply an asset devolution would not be considered.

3.4.3 Wiltshire Council will establish a program of devolution reviews with town and parish councils during a particular year. Wiltshire Council will assess all assets within the Community Area and contact the relevant Clerk to discuss the assets on the list. Applications outside of the program or land and buildings and services in isolation will not be considered, including the grant of short term leases.

3.4.4 Following agreement with the town or parish council, the asset devolution package will be presented to Wiltshire Council's Cabinet for a resolution or delegated authority thereof for a resolution.

3.4.5 The flowchart included in Appendix 5 demonstrates the process for asset devolution.

4. Review

The Asset and Service Delegation & Community Asset Transfer Policy will be reviewed in April 2020, to reflect any issues arising from the implementation of the Policy.

Appendices

- Relevant Legislation
- Restricted Assets
- Services for delegation
- Flowchart

Appendix 1 Relevant Legislation

Local Government Act 1972 (“1972 Act”) – s123 sets out that local authorities must obtain “best consideration” for all disposals, and s101 allows a local authority to delegate certain functions to another local authority (subject to express provisions in the 1972 Act and subsequent legislation).

Local Government Act 1972: General Disposal Consent 2003 (“General Consent Order”) - gives permission for Councils to dispose at less than best consideration provided the value forgone is less than £2m (in capital terms) and the transaction benefits the economic, social or environmental well-being of the area. If the value forgone is greater than £2m approval from the Secretary of State is required.

Local Government Finance Act [1988]

RICS Valuation - Professional Standards (“Red Book”) – defines market value when considering the price obtained from a disposal

Localism Act 2011 – introduced the concept of local communities taking more control of assets in their area.

Public Contracts Regulations 2015 - ensure that public spending on goods, services and works is subject to EU procurement rules. Pure land transactions are exempt from EU procurement rules, but the rules may apply where specified services are provided in exchange for receipt of an asset.

European Commission’s State Aid Rules – may apply to any use of public money and resources which is not subject to EU procurement rules (e.g. asset transfers and grant awards). These rules are intended to avoid state aided subsidies which could distort competition and affect trade between member states.

Transfer of employees: TUPE - There are two different types of transfer of employees under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) – Service Provision Change or a Transfer of Whole or Part of an Undertaking

Appendix 2

The types and nature of assets and or services that will transfer are set out in the policy. The Transfer of property assets are likely to be associated with transfers of services, where agreed between the parties. Assets that are unlikely to be considered for devolution are::

Assets held for investment purposes - both assets that generate an immediate income to Wiltshire Council and those held for future capital realisations
Assets of a rural nature - given Wiltshire Council's roles as a small holdings authority
Assets held with Wiltshire Council's Housing Revenue Account (HRA) - utilised to deliver the statutory housing functions
Vacant land or buildings that can generate a capital receipt in excess of de-minimus level for capital accounting purposes - with capital receipts required to fund the capital programme of Wiltshire Council
Land held for future development of Wiltshire Council or partner schemes - as it would not be financially prudent to devolve the land and be required to repurchase in the future
Education and statutory early years premises - due to Wiltshire Council's roles as a Local Authority for education purposes
Car parks defined by Wiltshire Council for retention under the 2015 Parking Review or any subsequent reviews or land held or adopted as public highway - due to Wiltshire Council's role as Highway Authority

APPENDIX 3

Soft Maintenance Services		
Task	Comment	Conditions
Litter Picking	<ul style="list-style-type: none"> • Litter examples include: • Dead animals (road kill) • Dog/ animal faeces • Cigarette waste & cigarette packets • Beverage and drinks containers • Food containers or utensils • Publications, magazines and newspapers • Shopping and other bags • Illegal deposits of bagged commercial and household waste which shall be cleared as fly tipping, see further below • Removal of pigeon droppings from pathways and footways • Removal of fallen branches, wood, metal and plastic objects • Removal of leaf and blossom falls to an approved programme • Other similar waste types up to 1 cubic meter 	Must be carried out on both Amenity Land and the Highway
Emptying of Litter Bins		Must be carried out on both Amenity Land and the Highway
Removal of Dead Animals on the Highway		Must be carried out on both Amenity Land and the Highway
Removal of Fly Tipping (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway

Removal of Fly Posting (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway
Graffiti Removal (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway
Shopping Trolley Removal (but no enforcement related tasks)		Must be carried out on both Amenity Land and the Highway
Leaf Clearance		Must be carried out on both Amenity Land and the Highway
Balancing ponds, amenity footpaths, Streetscene assets and water courses	Monitor the condition and highlight any health and safety concerns on amenity footpaths, ponds, ditches and any amenity asset and effect their reasonable repair	Must be carried out on Amenity Land
Park and Highway Furniture	Monitor the condition of the furniture and highlight any health and safety concerns and effect their reasonable repair/replacement (subject on each occasion to WC's permission to repair/replace highway furniture)	Must be carried out on both Amenity Land and the Highway. WC's prior written permission must be given in respect of repairing and replacing Highway furniture.
Grounds Maintenance	Shrub Bed Maintenance, Maintenance of Shelterbelt/Plantation Areas/ Hedge Maintenance/ Tree/ Herbaceous Borders and any soft area maintenance.	Must be carried out on Amenity Land and the Highway. WC's consent to maintain the verges of the Highway is hereby given.
Grass Maintenance	<ul style="list-style-type: none"> • Sheltered Housing Schemes • High amenity areas • General grass areas • Low Amenity areas 	Must be carried out on the Amenity Land and the verges of the Highway. WC's consent to maintain the verges of the Highway is hereby given.

	<ul style="list-style-type: none"> • Highway verge areas • Rough grass areas • Flail grass areas • Wild flower/conservation areas 	
Sports Pitch Maintenance (Football and Rugby)		Must be carried out on Amenity Land
Cricket Pitch Maintenance		Must be carried out on Amenity Land
Countryside	Litter clearance and emptying of litter bins	Must be carried out on Amenity Land
Woodlands and Countryside Site	Scavenging and cleaning and/or maintenance	Must be carried out on Amenity Land
Play Areas, Multiple Use Games Areas (MUGA) and Skate Park Inspection and Maintenance		Must be carried out on Amenity Land
Allotments	General up keep and maintenance including: <ul style="list-style-type: none"> • Boundary fencing • Gates and Hedges • Tracks • Car parks • Grass areas and • Footpaths 	Must be carried out on Amenity Land (allotments)
Open Cemeteries	General up keep and maintenance including memorial testing	Must be carried out on Amenity Land (cemeteries)

Closed Churchyards	General up keep and maintenance including memorial testing	Must be carried out on Amenity Land (closed churchyards)
Car Parks and hard areas maintained by WC immediately prior to the Transfer Date	Maintenance of car parks – grounds and street cleaning (as per Idverde Scope)	Must be carried out on Amenity Land and hard areas subject to the exclusions in Column 1
Centre Litter Picking and Sweeping		Must be carried out on Amenity Land and the Highway
Weed Control (amenity hard areas and highways)	Responsibility for all weeds on the highways and service delegated areas	Must be carried out on Amenity Land and the Highway
Bus shelter maintenance	Litter collection and cleaning (graffiti, fly posting, moss etc. removal)	Must be carried out on Amenity Land and the Highway

Appendix 4

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Hard Area Maintenance Services	
Type of Land	
<p>The public open space where the hard asset is managed is:</p>	<ul style="list-style-type: none"> • public gardens; • land used for the purposes of public recreation; • parks; • natural and semi-natural urban greenspaces • derelict open land; • sports pitches; • outdoor sports areas; • play provision; • amenity greenspace; • play areas; • skateboard parks; • outdoor basketball hoops; • and other more informal area (e.g. 'hanging out' areas, teenage shelters); • accessible countryside in urban fringe areas; • cemeteries; • closed churchyards.
<p>For the avoidance of doubt, hard asset management would not be delegated for:</p>	<ul style="list-style-type: none"> • Play & Display Car Parks

- Highway assets (without prior agreement – see below)
- Campus or Hub areas
- Housing Revenue Areas

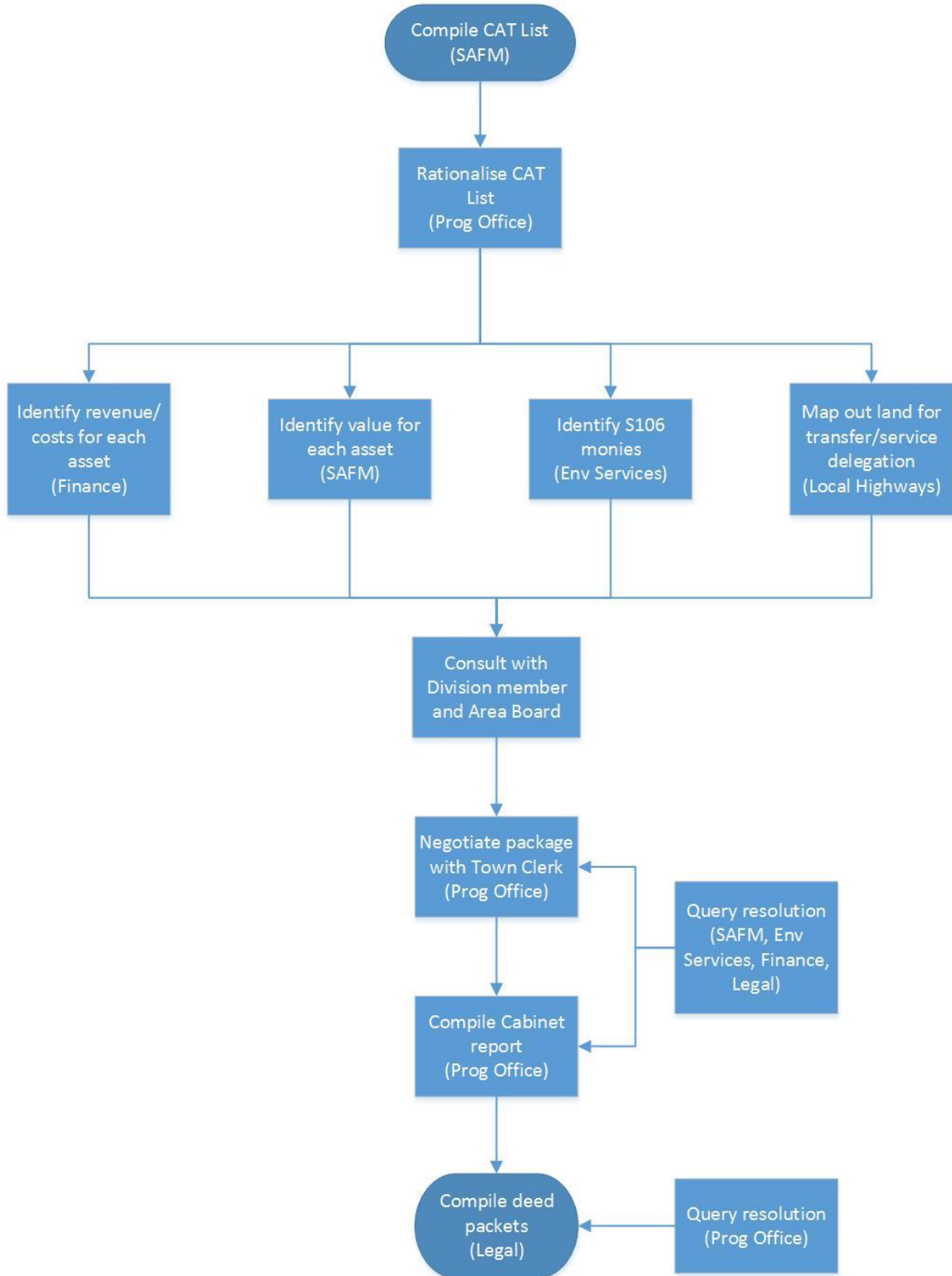
The concept of the delegation would be for hard asset maintenance to be as an asset transfer.

As such anything on the asset and anything beneath (but not adopted assets) would become the responsibility of the local council.

Hard assets would include: fences; walls; paths; lighting; seats; fixed equipment etc.

APPENDIX 5

Community Asset Transfer High Level Process





WILTSHIRE COUNCIL
LEGAL SERVICES
BYTHESEA ROAD
TROWBRIDGE
BA14 8JN



Date
1 April 2014

Your ref
EK/20505 VICTORIA ROAD

Our ref
RCS/WT315071

Completion of registration

Title number **WT315071**

Property **Land at Garage Site, Victoria Road,
Devizes**

Registered proprietor **Wiltshire Council**

Your application lodged on 5 March 2014 has been completed. An official copy of the register is enclosed together with an official copy of the title plan.

There are no other documents to send to you.

You do not need to reply unless you think a mistake has been made. If there is a problem or you require this correspondence in an alternative format, please let us know.

The Title information document is enclosed for you to keep or issue to your client as appropriate.

Important information about the address for service

If we need to write to an owner, chargee or other party who has an interest noted on the register, we will write to them at the address shown on the register. We will also use this address if we need to issue any formal notice to an owner or other party as a result of an application being made. Notices are often sent as a measure to safeguard against fraud. It is important that this address is correct and up to date. If it is not you may not receive our letter or notice and could suffer a loss as a result.

You can have up to three addresses for service noted on the register. At least one of these must be a postal address, whether or not in the United Kingdom; the other two may be a DX address, a UK or overseas postal address or an email address.

Please let us know at once of any changes to an address for service.

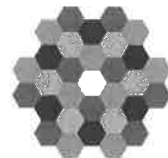
Land Registry
Weymouth Office
Melcombe Court
1 Cumberland Drive
Weymouth DT4 9TT

DX 8799 Weymouth 2

Tel 0300 006 0014
Fax 0300 006 0034
weymouth.office
@landregistry.gsi.gov.uk

www.landregistry.gov.uk

Public Guide 2 – *Keeping your address for service up to date* explains how to do this. You can view or download copies of this guide from our website at www.landregistry.gov.uk in English and Welsh or obtain a copy of it free of charge from any Customer Support – telephone 0844 892 1111 (0844 892 1122 for a Welsh-speaking service) from Monday to Friday between 8am and 6pm.



Title information document

This document has been issued following a change to the register. It has been supplied for information only. It should not be sent to Land Registry in connection with any subsequent application.

Attached is an official copy of the register and of the title plan showing the entries subsisting following the recent completion of the application to change the register.

Please note: The attached official copy shows the state of the individual register of title as at the date and time stated on it.

If in future you wish to apply for an official copy of the register or the title plan, please apply using form OC1 (available from our website, any Land Registry local office and law stationers). A fee is payable for each copy issued.

If you have any queries, or you require this correspondence in an alternative format, please contact us at the address shown, quoting the title number shown on the top of the official copy.

Land Registry
Weymouth Office
Melcombe Court
1 Cumberland Drive
Weymouth DT4 9TT

DX 8799 Weymouth 2

Tel 0300 006 0014
Fax 0300 006 0034
weymouth.office
@landregistry.gsi.gov.uk

www.landregistry.gov.uk

Important information about the address for service

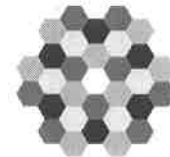
If we need to write to an owner, chargee or other party who has an interest noted on the register, we will write to them at the address shown on the register. We will also use this address if we need to issue any formal notice to an owner or other party as a result of an application being made. Notices are often sent as a measure to safeguard against fraud. It is important that this address is correct and up to date. If it is not you may not receive our letter or notice and could suffer a loss as a result.

You can have up to three addresses for service noted on the register. At least one of these must be a postal address, whether or not in the United Kingdom; the other two may be a DX address, a UK or overseas postal address or an email address.

Please let us know at once of any changes to an address for

service.

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Official copy of register of title

Title number WT315071

Edition date 05.03.2014

- This official copy shows the entries in the register of title on 1 April 2014 at 13:43:05.
- This date must be quoted as the "search from date" in any official search application based on this copy.
- The date at the beginning of an entry is the date on which the entry was made in the register.
- Issued on 1 April 2014.
- Under s.67 of the Land Registration Act 2002, this copy is admissible in evidence to the same extent as the original.
- For information about the register of title see Land Registry website www.landregistry.gov.uk or Land Registry Public Guide 1 - *A guide to the information we keep and how you can obtain it.*
- This title is dealt with by Land Registry Weymouth Office.

A: Property register

This register describes the land and estate comprised in the title.

WILTSHIRE

- 1 (28.07.1995) The Freehold land shown edged with red on the plan of the above title filed at the Registry and being Land at Garage Site, Victoria Road, Devizes.
- 2 (14.11.1995) There are excluded from the registration the surface of such adopted roads and paths (being highways maintainable at public expense) as fall within the land in this title and such adopted pipes wires and cables public sewers water mains gas mains and electricity mains as lie therein and thereunder.
- 3 The Conveyance dated 23 October 1963 referred to in the Charges Register contains the following provision:-

"IT is hereby declared that the Purchasers shall not be entitled to any right or easement of light or air or otherwise which would restrict or in any way interfere with the free user for building or for any other purpose of the adjoining or adjacent property of the Trustees"
- 4 (14.11.1995) The land has the benefit of the rights granted by but is subject to the rights reserved by a Transfer of the land in this title and other land dated 18 July 1995 made between (1) Kennet District Council and (2) Sarsen Housing Association Limited.

NOTE 1: Original filed under WT146390

NOTE 2: There are no areas of land coloured brown (being the Retained Land) shown on the Transfer plan and the provisions of the Transfer take effect accordingly.

A: Property register continued

- 5 (05.03.2014) The land has the benefit of the rights granted by but is subject to the rights reserved by the Transfer dated 28 February 2014 referred to in the Charges Register.
- 6 (05.03.2014) The Transfer dated 28 February 2014 referred to in the Charges Register contains a provision as to light or air and a provision excluding the operation of section 62 of the Law of Property Act 1925 as therein mentioned.

B: Proprietorship register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (05.03.2014) PROPRIETOR: WILTSHIRE COUNCIL of County Hall, Bythesea Road, Trowbridge BA14 8JN.

C: Charges register

This register contains any charges and other matters that affect the land.

- 1 A Conveyance of the land in this title and other land dated 23 October 1963 made between (1) The Trustees of St. Mary's (Devizes) Church and Poor Lands Charity and (2) Devizes Corporation contains covenants. By a Deed dated 26 September 1964 made between (1) The Trustees of St. Mary's (Devizes) Church and Poor Lands Charity and (2) Devizes Corporation the said covenants were expressed to be varied. Details of the covenants and of the variations are set out in the schedule of restrictive covenants hereto.
- 2 The land is subject to the rights granted by a Deed dated 24 February 1989 made between (1) The District Council of Kennet (Grantor) and (2) Anthony John Axford (Grantees) and C.N. Towill and Co Limited.
- NOTE: Copy filed.*
- 3 (05.03.2014) A Transfer of the land in this title dated 28 February 2014 made between (1) Aster Communities and (2) Wiltshire Council contains restrictive covenants.

NOTE: Copy filed.

Schedule of restrictive covenants

- 1 The following are details of the covenants contained in the Conveyance dated 23 October 1963 referred to in the Charges Register:-

(7) NOT (without the previous written approval of the Trustees) to use or permit to be used the land hereby conveyed or any part thereof for any other purpose than:-

(a) As to those parts of the land coloured red and green on the aforesaid plan which are hatched black thereon for the erection thereon of not more than sixteen bungalow type dwellinghouse for elderly persons

(b) As to the remainder of the land coloured red on the said plan for the

Schedule of restrictive covenants continued

erection thereon of not more than two homes for elderly persons a pair of two-storey three-bedroom type dwellinghouses to be situated near the south eastern boundary thereof and a block of garages to be situated along or partly along the southern boundary thereof

(c) As to the remainder of the land coloured green and that coloured blue on the aforesaid plan by the erection thereon of two-storey three-bedroom type dwellinghouses or bungalows for the elderly only PROVIDED that the before mentioned restrictions and conditions shall not preclude the Purchasers from also developing the land hereby agreed to be sold by the construction of a new road and paths in the approximate position shown by dotted lines on the said plan and will not do or permit upon the said land anything whatsoever which would detrimentally affect the amenities of the Trustees' existing or any future Almshouses or other buildings erected upon their adjacent or adjoining land PROVIDED ALWAYS that nothing in this covenant shall prevent the Purchasers or their successors in title from using the land hereby agreed to be sold or any part thereof for the purposes of an Old People's Home (which may include a centre for handicapped persons) The Trustees however reserve the right to alter or waive this stipulation in respect of their adjoining or adjacent property or any part thereof."

NOTE: Copy plan filed under WT146391.

- 2 The following are details of the terms of the Variations contained in the Deed dated 26 September 1964 referred to in the Charges Register:-

"The Trustees in the name and on behalf of the said Official Custodian for Charities do hereby release the Council and its successors in title to the land comprised in and conveyed to the Council by the aforesaid Conveyance from the obligations of the covenant contained in paragraph (7) of the Schedule to the aforesaid Conveyance to the extent necessary to permit the development of the said land in accordance with the substituted covenant and conditions hereinafter contained but not further or otherwise and to the intent that this release shall not prejudice or release vary or modify in any way whatsoever the other covenants restrictions and conditions contained in the aforesaid Conveyance

2. FOR the consideration aforesaid and for the benefit and protection of the remaining adjacent or adjoining land of the Trustees or any part or parts thereof and so as to bind so far as may be the land hereby covenanted unto whosoever hands the same may come the Council hereby covenants with the Trustees and as a separate covenant with the Official Custodian for Charities that the Council and those deriving title under it will at all times hereafter observe and perform the stipulations set out in the Schedule hereto (in substitution for those contained in paragraph (7) of the Schedule to the aforesaid Conveyance) but so that the Council shall not be liable for any breach of this covenant occurring on or in respect of the aforesaid land or any part or parts thereof after they shall have parted with all interest therein.

THE SCHEDULE hereinbefore referred to

Being covenants restrictions and conditions on the part of the Council in substitution for paragraph (7) of the Schedule to the aforesaid Conveyance."

Not (without the previous written approval of the Trustees) to use or permit to be used the land comprised in and conveyed to the Council by the aforesaid Conveyance or any part thereof for any other purpose than:-

Schedule of restrictive covenants continued

(a) As to those parts of the said land coloured green on the plan annexed to these presents for the erection thereon of not more than eight two storey three bedroom type private dwellinghouses

(b) As to those parts of the said land coloured yellow on the said plan by the erection thereon of not more than five blocks of three storey two bedroom type private residential flats

(c) As to the land coloured blue on the said plan by the erection thereon of two storey three bedroom type private dwellinghouses or bungalows for the elderly

(d) As to the remainder of the land coloured red on the said plan by the erection thereon of an Old People's Home (which may include a centre for handicapped persons) and (along or partly along the Southern boundary thereof) of not more than two blocks of (each) sixteen private garages

Provided that the before mentioned restrictions and conditions shall not preclude the Council from also developing the said land by the construction of a new road and paths in the approximate position shown by dotted lines and coloured brown on the said plan and will not do or permit upon the said land anything whatsoever which would detrimentally affect the amenities of the Trustees' existing or any future Almshouses or other buildings erected upon their adjacent or adjoining land.

The Trustees reserve the right to alter or waive the whole or any part of the covenants restrictions and conditions contained in these presents or in the aforesaid Conveyance in respect of their adjoining or adjacent property or any part thereof."

NOTE: Copy plan filed under WT146391.

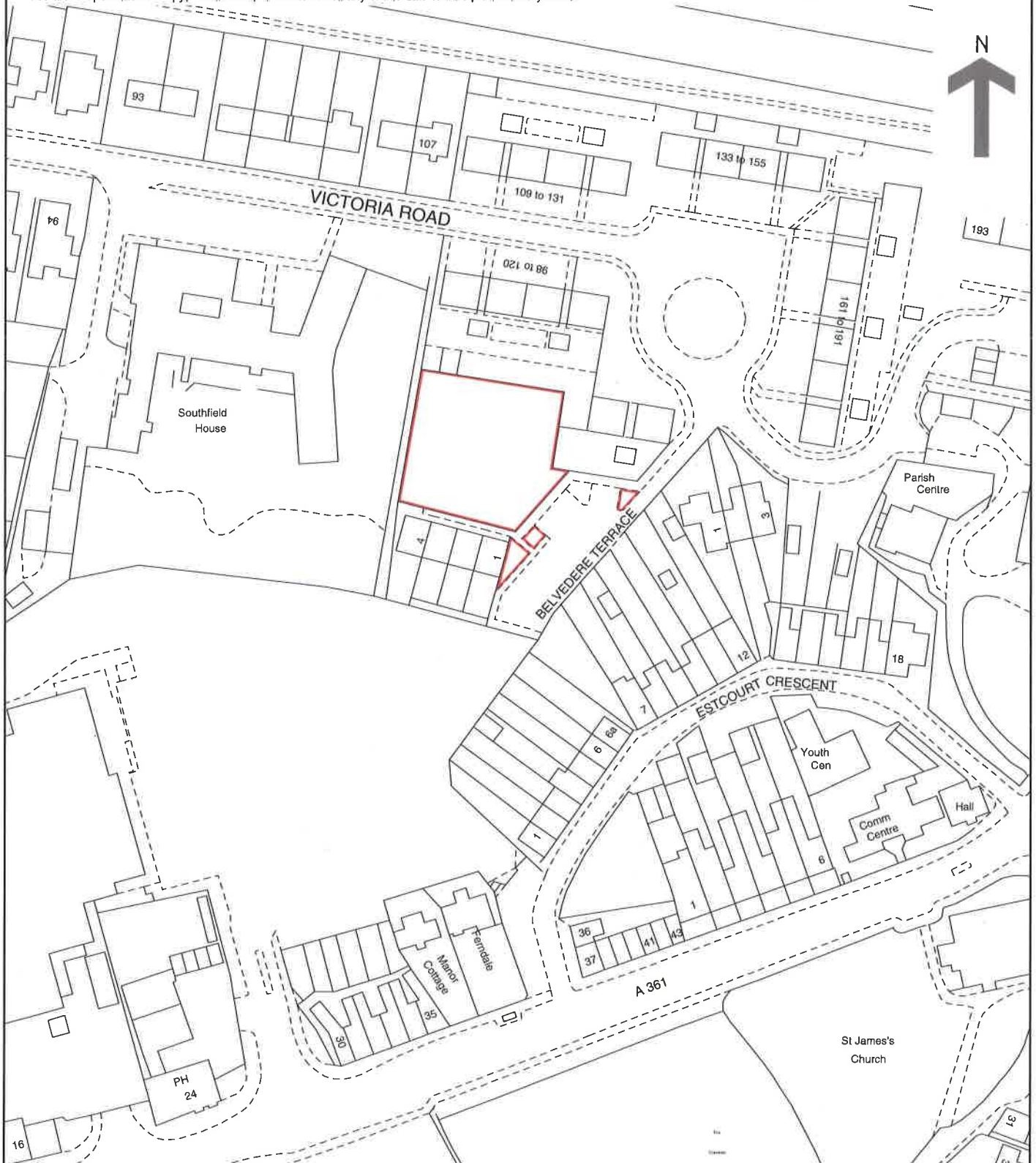
End of register

Land Registry Official copy of title plan

Title number **WT315071**
Ordnance Survey map reference **SU0061NE**
Scale **1:1250** enlarged from 1:2500
Administrative area **Wiltshire**



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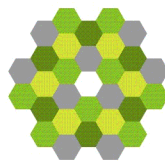
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Title number **WT292859**
Ordnance Survey map reference **SU0160NE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Wiltshire**



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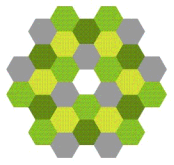
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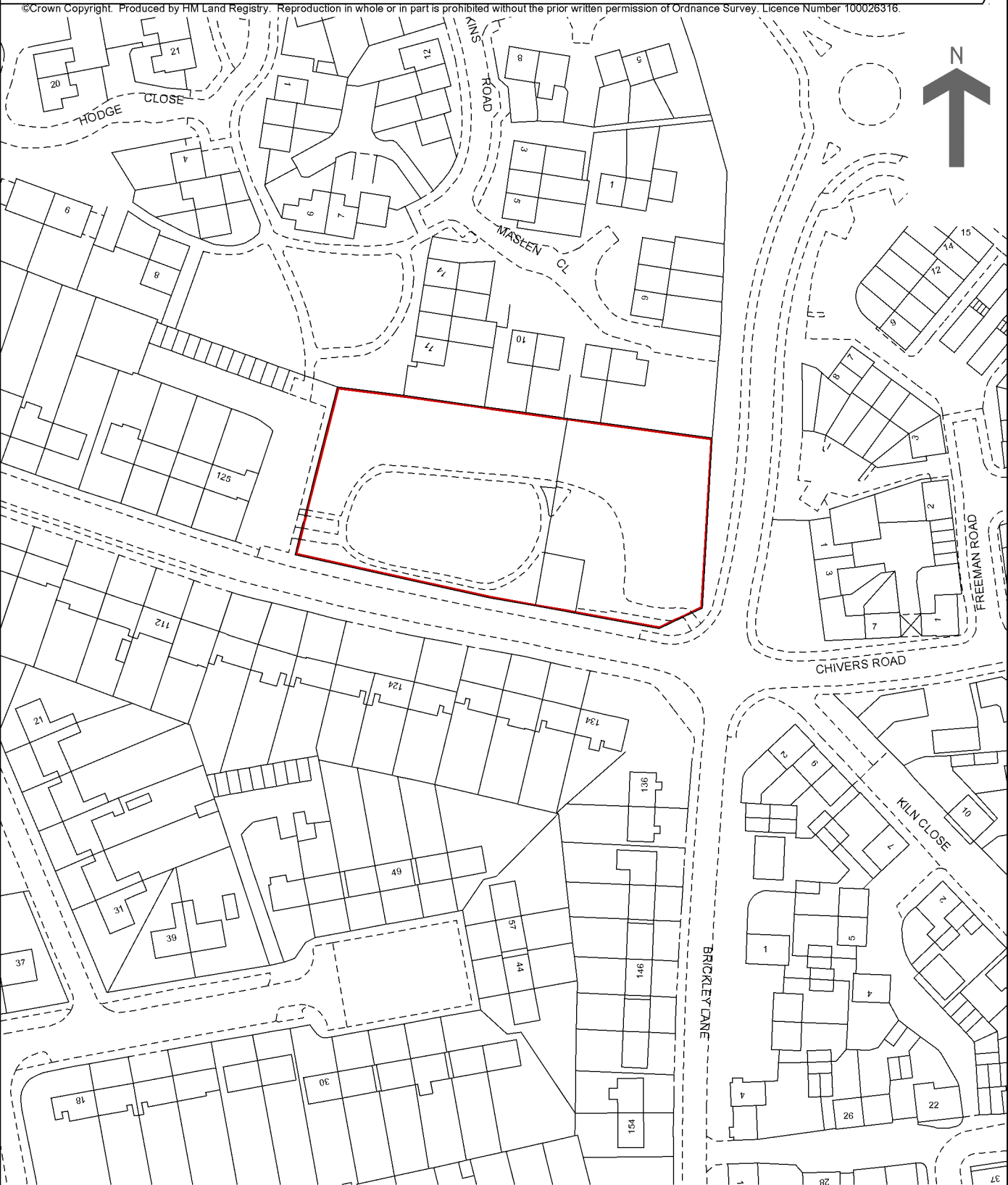
HM Land Registry

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Title number **WT263502**
Ordnance Survey map reference **SU0161SE**
Scale **1:1250 enlarged from 1:2500**
Administrative area **Wiltshire**



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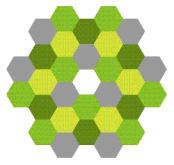
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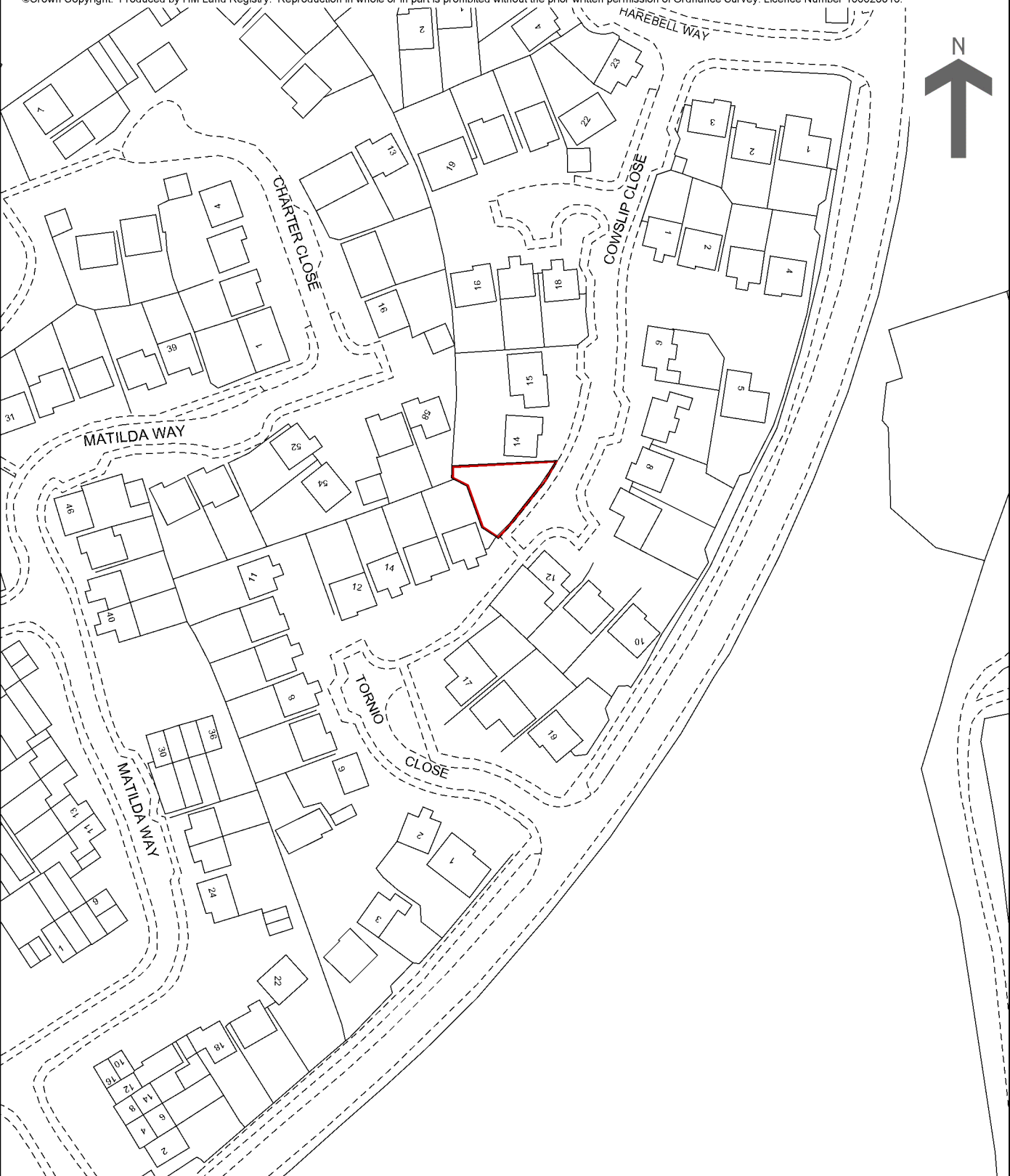
HM Land Registry

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Title number **WT187154**
Ordnance Survey map reference **SU0162SE**
Scale **1:1250**
Administrative area **Wiltshire**

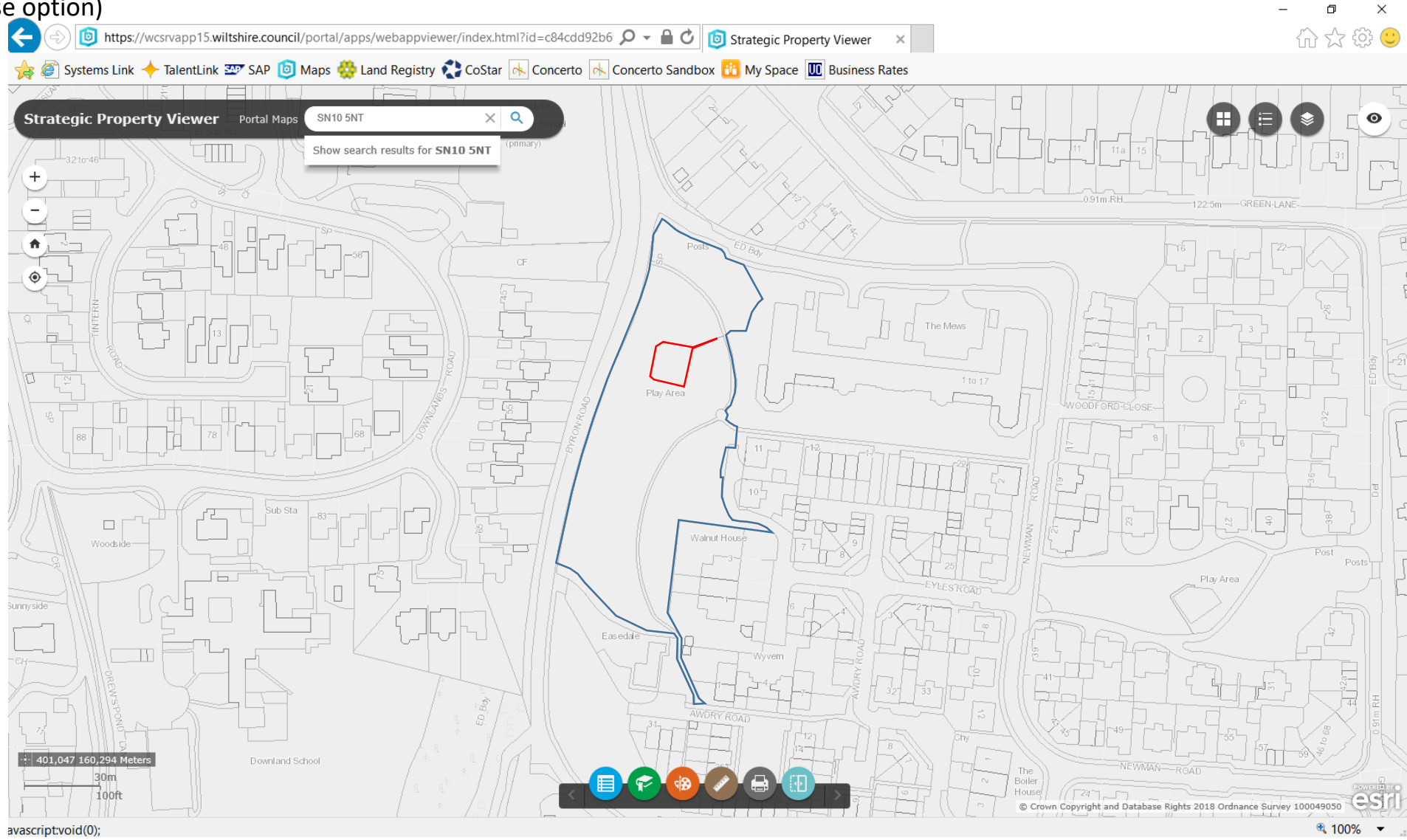


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Byron Road (Lease option)

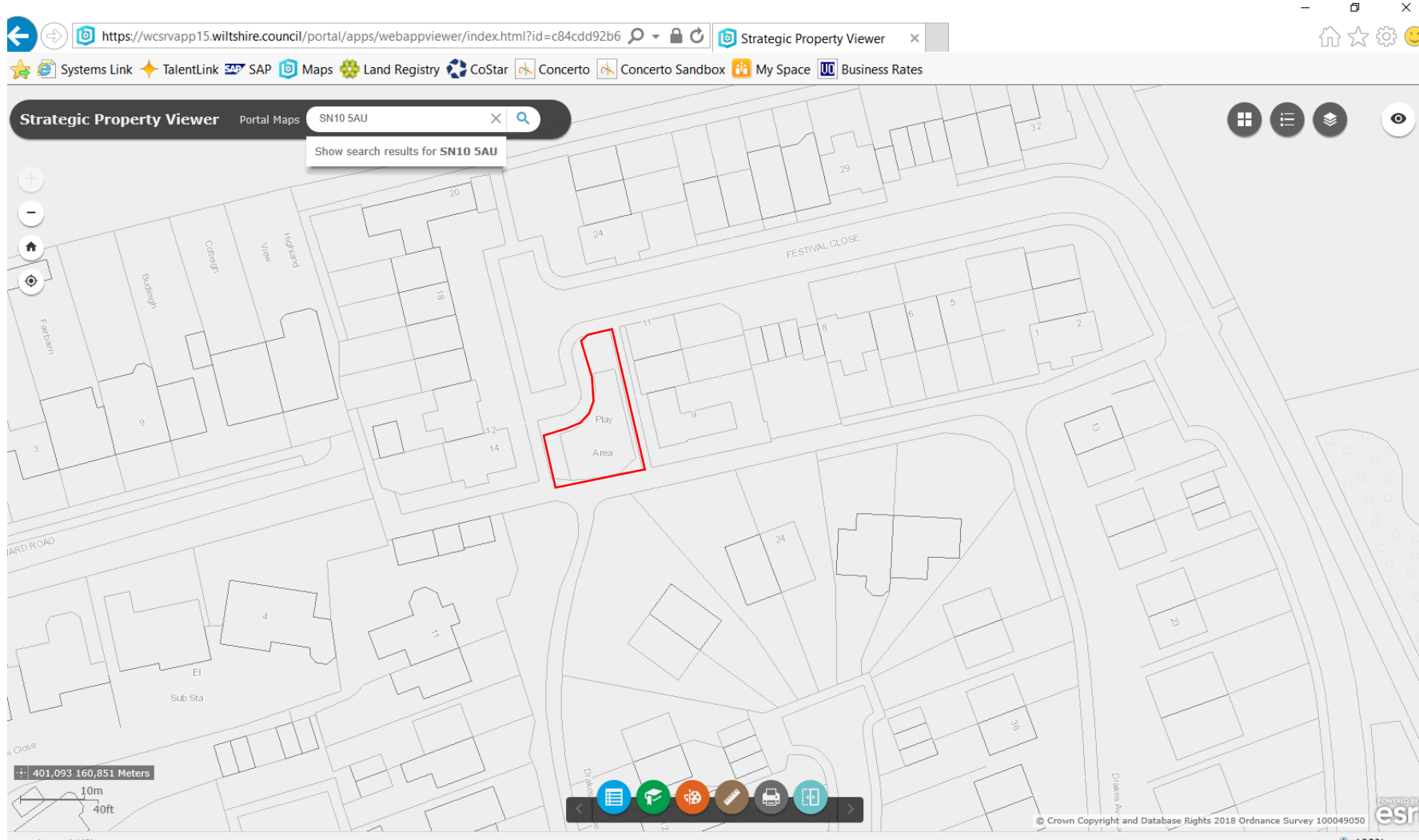
Page 77



Draft 125 year lease plan
Sept 18
For indication only

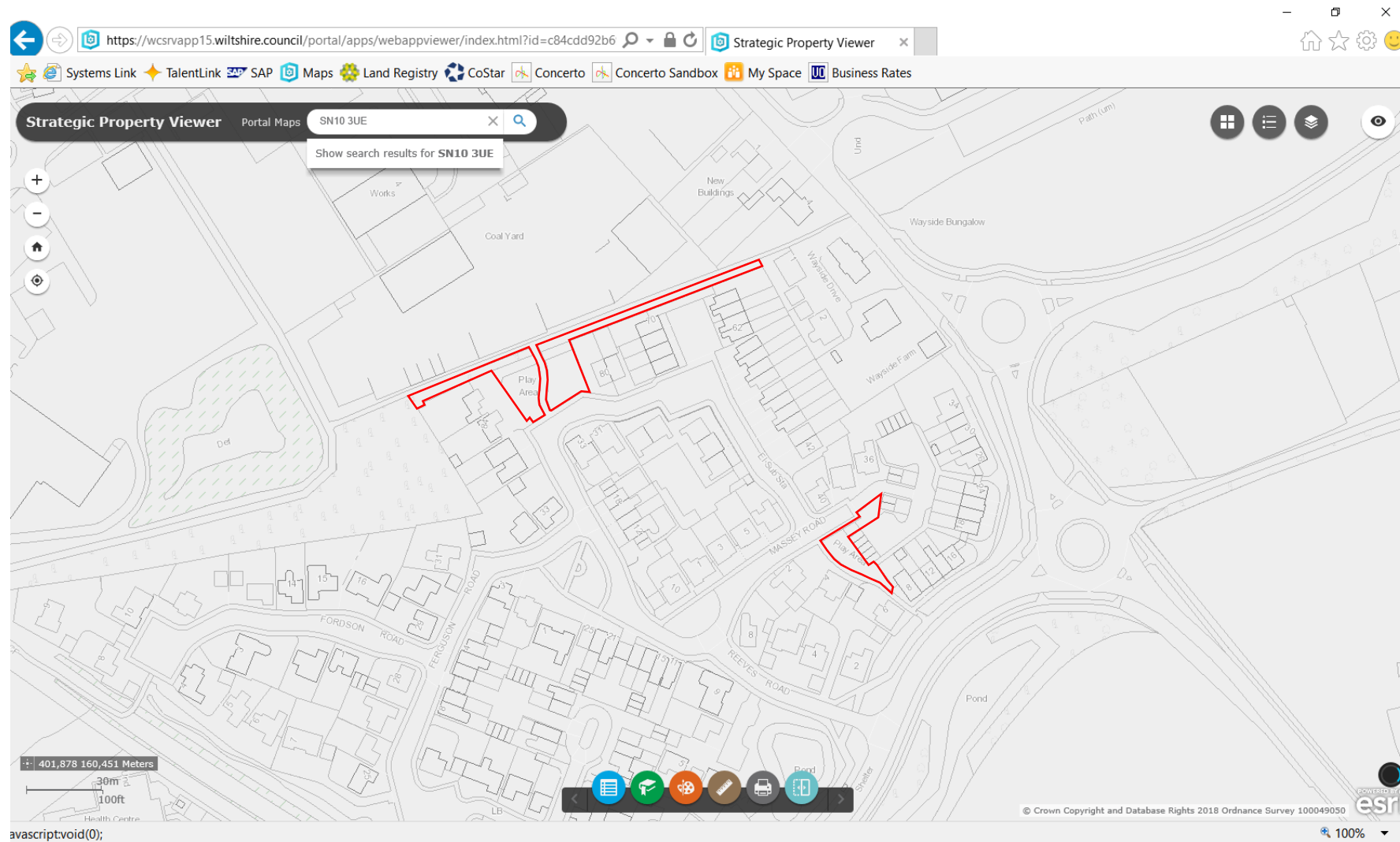
Festival Close

Page 78



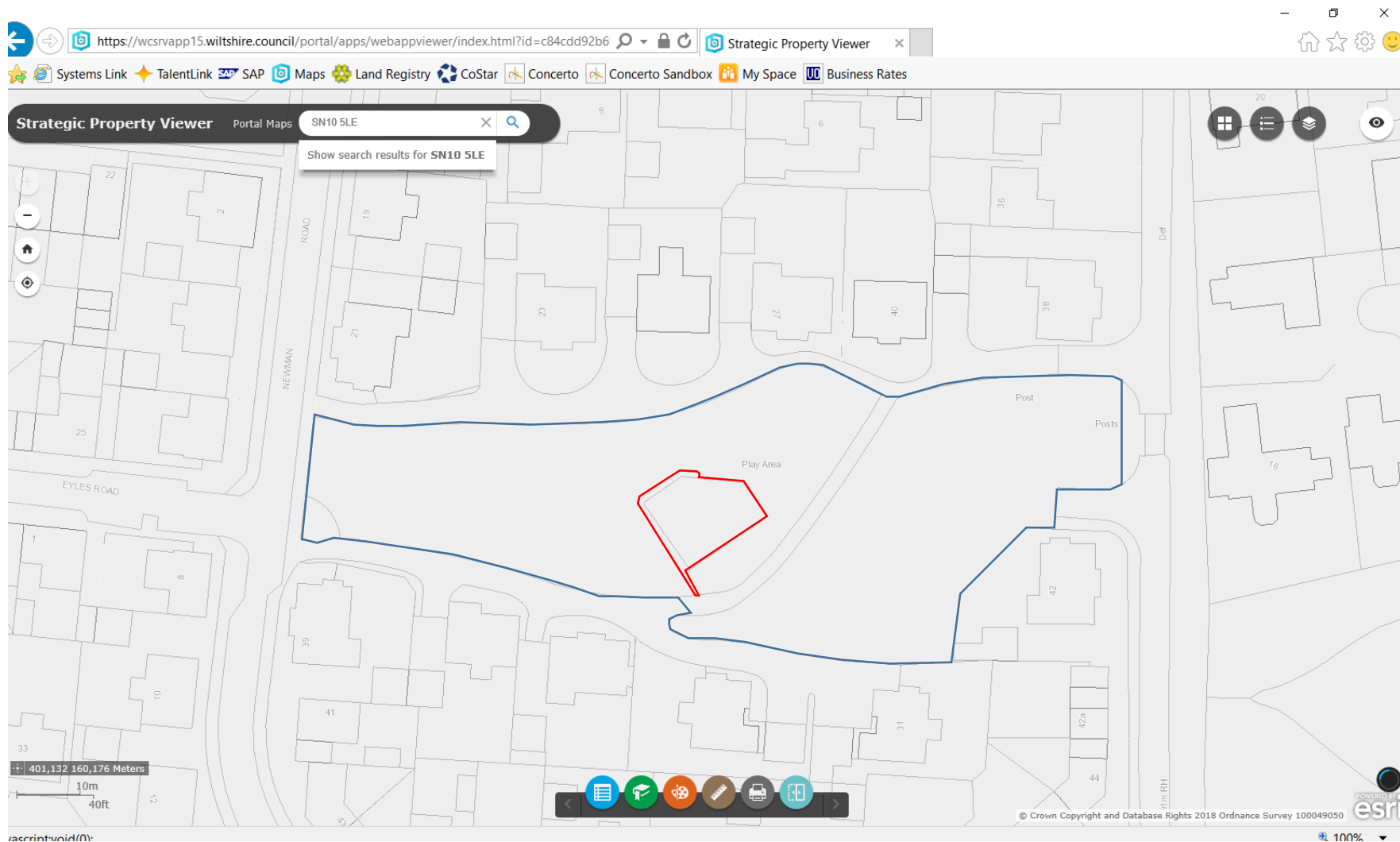
Draft transfer plan
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Massey Road



Draft transfer plan
Sept 18
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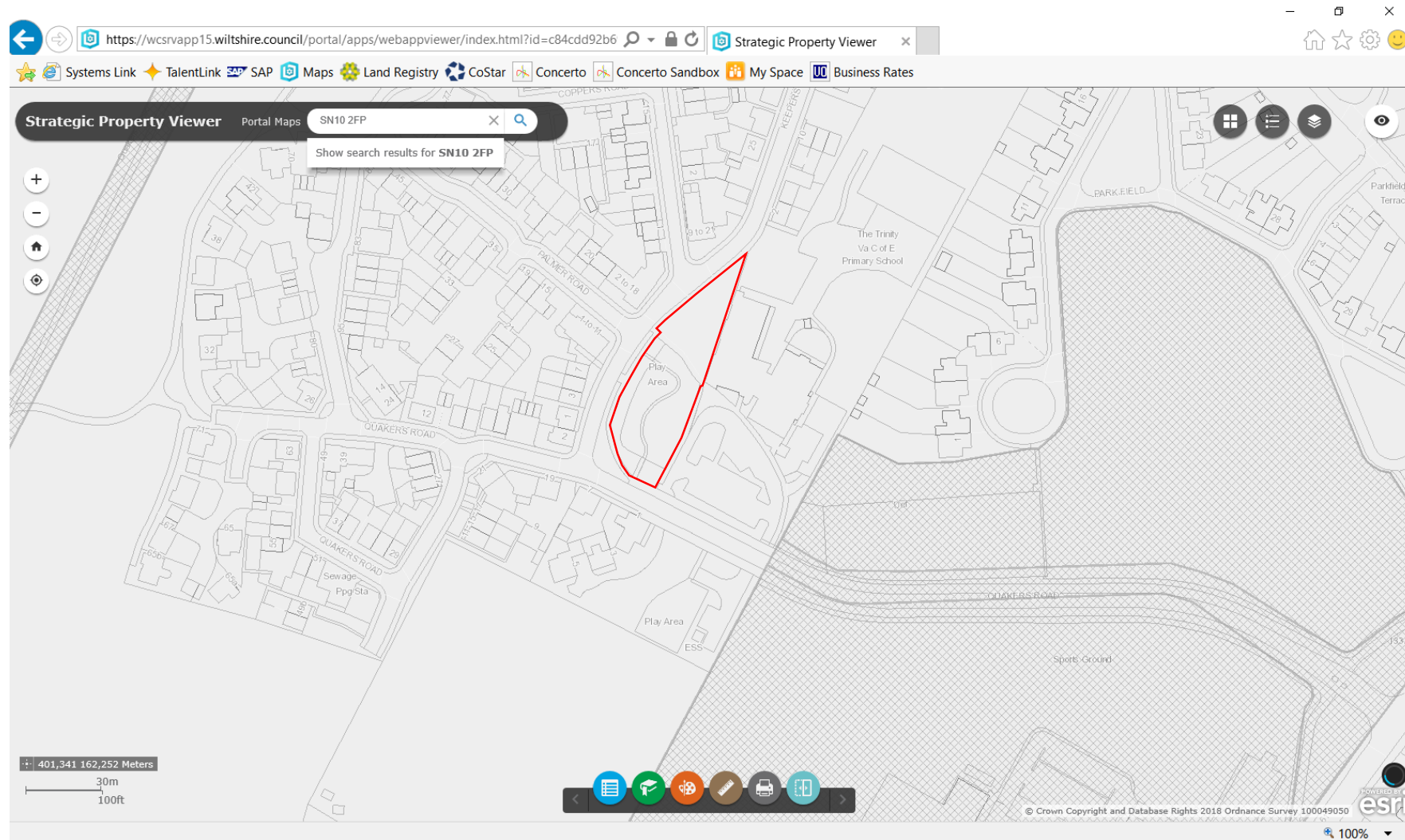
Newman Road (Lease option)



Draft 125 year lease plan
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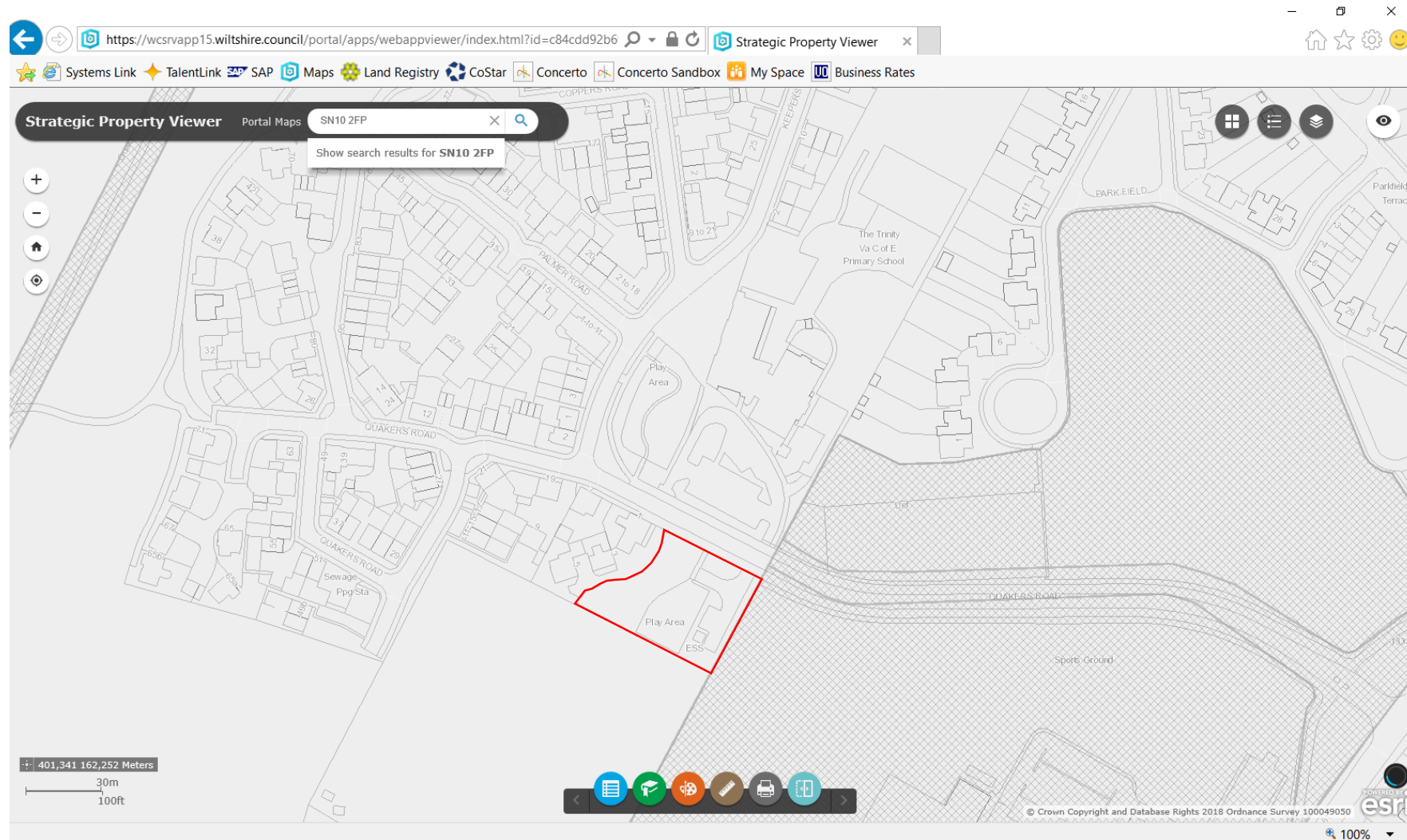
Palmer Road 1

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Draft transfer plan
Sept 18
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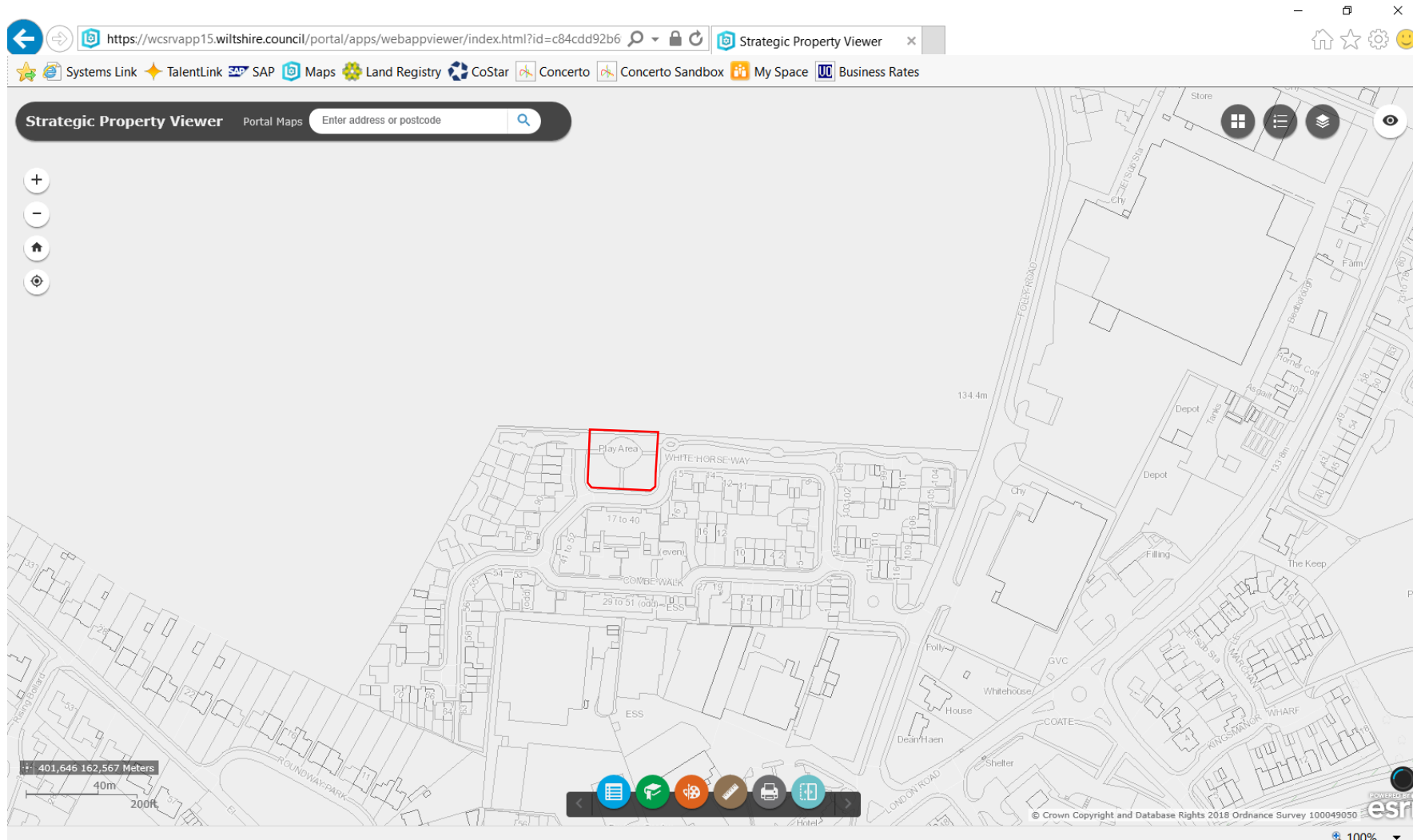
Quakers Road 1



Draft transfer plan
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White Horse Way

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Draft transfer plan
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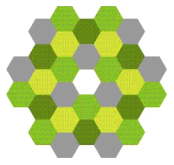
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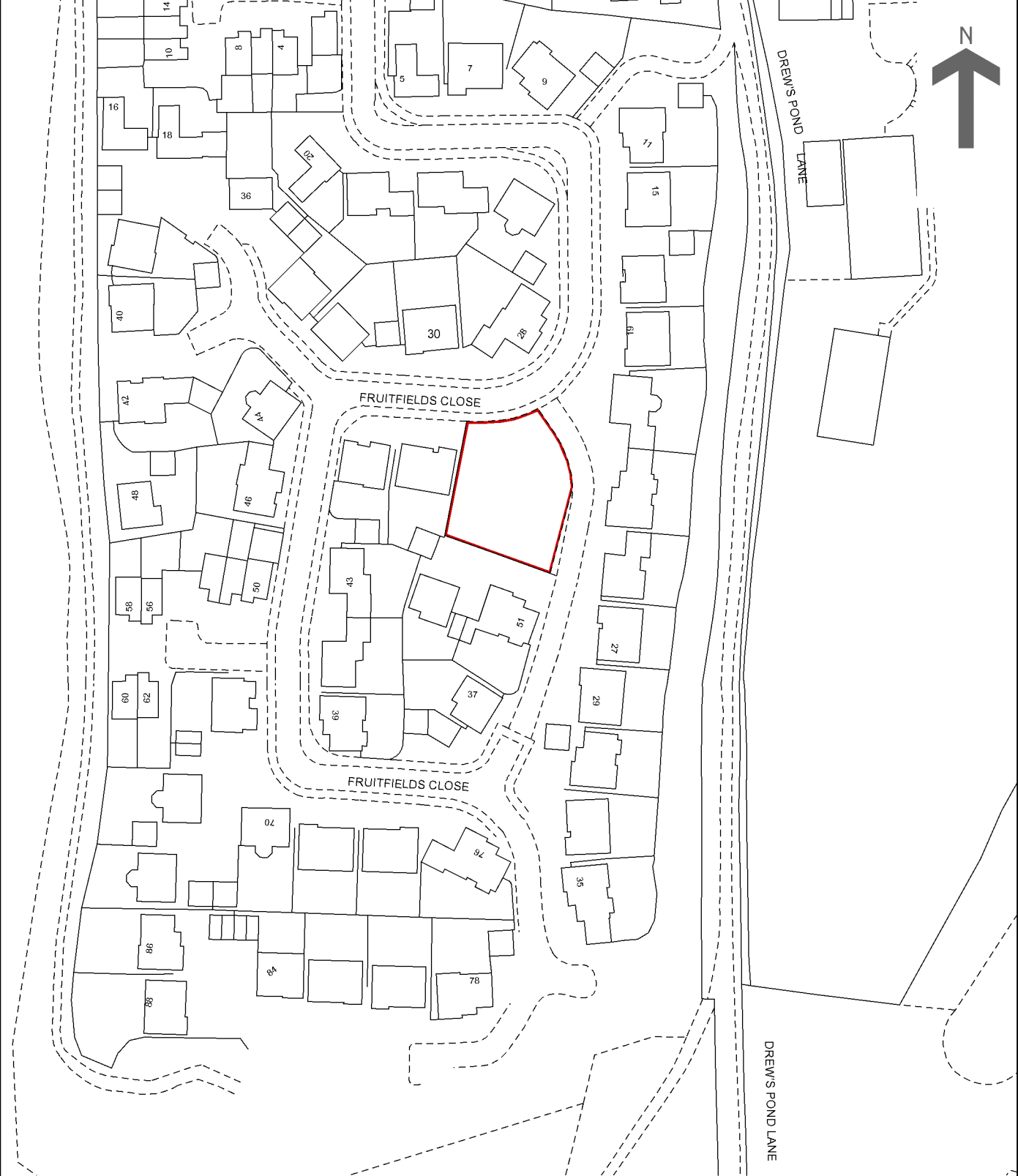
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Devezes Heritage Park – Whole title 125 year lease



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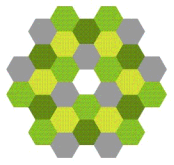
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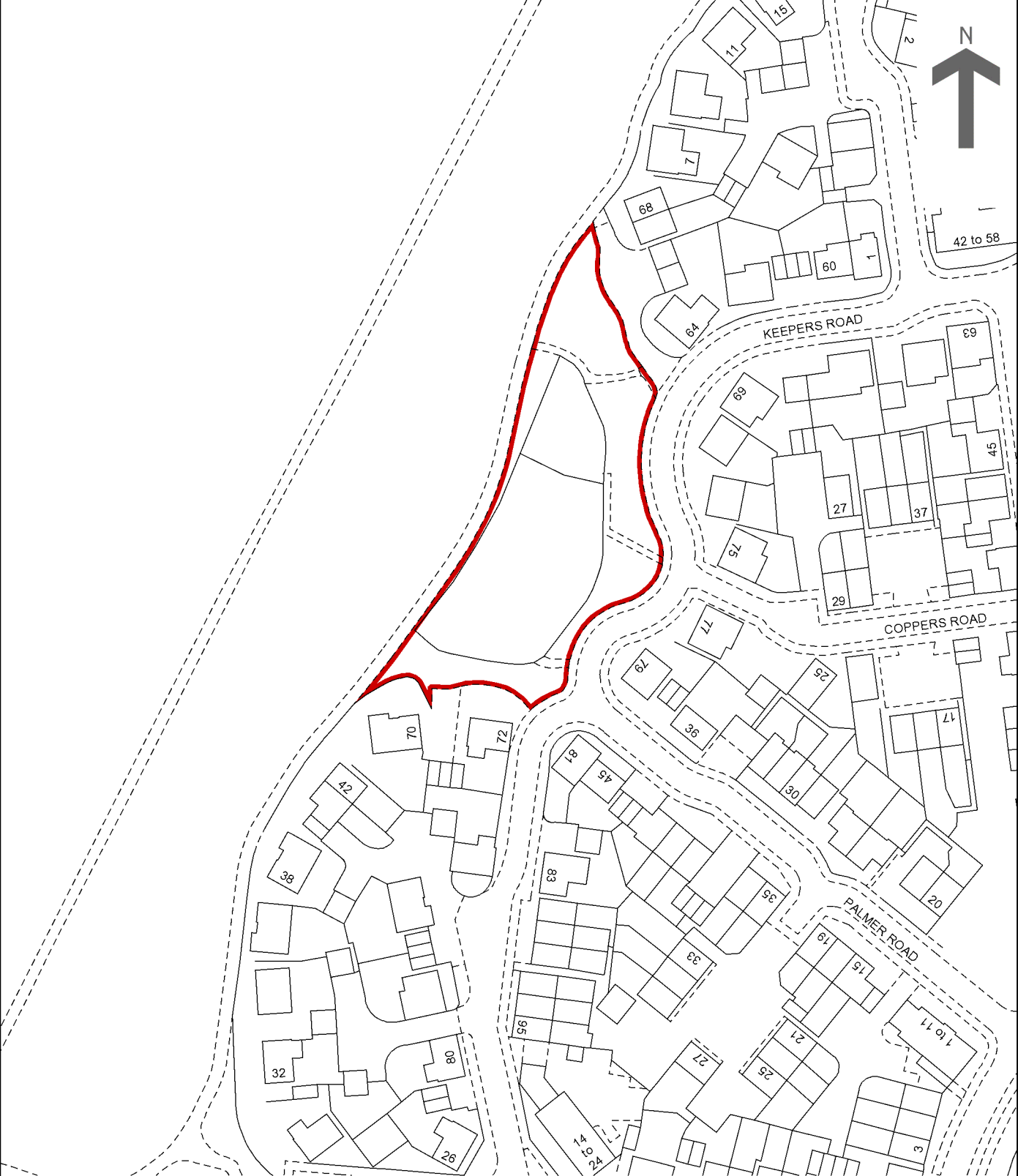
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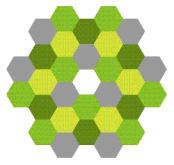
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