

Wiltshire Council

Cabinet

30 January 2018

Subject: Warminster King George V Field

Cabinet member: Councillor Toby Sturgis - Planning and Property

Key Decision: No

Executive Summary

The majority of Warminster Park was transferred to Warminster Town Council on 21st November 2016 in accordance with a Warminster Area Board decision under Wiltshire Council's community asset transfer policy made on 7th July 2015.

An area of land within the park was not included in the transfer to Warminster Town Council as Wiltshire Council is the sole trustee of this area of land which is held on trust as a King George V Field.

The trust is registered with the Charity Commission under the name King George's Field – Warminster with the number 1086713.

This report sets out the steps and decisions required to enable Warminster Town Council to take responsibility for this area of land.

It also recommends that those decisions be made by Cabinet on behalf of Wiltshire Council as sole trustee of the King's George's Field – Warminster charitable trust, and that authority be given to the Corporate Director for Growth Investment & Place to enter into any legal documentation that may be necessary to give effect to those decisions.

Proposals

That members resolve:

- a) that Wiltshire Council, in its capacity as sole trustee of the King George V Field - Warminster (the Trust), make any changes to the Trust documents that may be necessary to appoint Warminster Town Council as a trustee of the Trust and to resign as a trustee following that appointment;
- b) that officers should, if appropriate, liaise with the Charity Commission and Fields in Trust to seek, if required, the approval of either of those bodies for the appointment of Warminster Town Council as trustee of the Trust;
- c) that following the securing of any such approval and the appointment of

Warminster Town Council as trustee of the Trust to transfer the Legal Title to the King George V Field, Warminster to Warminster Town Council and then resign as trustee of the Trust; and

- d)** to authorise the Corporate Director for Growth Investment & Place to enter into any legal documentation which is required to enable the above to be implemented.

Reason for Proposal

To enable the Legal Title of the area of Warminster Park that is the subject of the Trust to pass to Warminster Town Council in the most cost effective and efficient way.

Alistair Cunningham
Corporate Director

Wiltshire Council

Cabinet

30 January 2018

Subject: Warminster King George V Field

Cabinet member: Councillor Toby Sturgis – Planning and Property

Key Decision: No

Purpose of Report

1. This report seeks approval to taking all steps necessary to ensure the transfer of the Legal Title to King George V Field within Warminster Park to Warminster Town Council following the transfer to it of the majority of Warminster Park on the 21st November 2016.

Relevance to the Council's Business Plan

2. The proposal will contribute towards the devolution of services and associated assets to towns and parishes as it will enable the remaining portion of Warminster Park to be transferred. Under the *Strong Communities* priority Wiltshire Council's Business Plan states that *more services and assets will be devolved to parish councils and community groups*.

Main Considerations for the Council

3. When the majority of Warminster Park was transferred to Warminster Town Council part of it (approximately 3,270 square metres) which was designated as a King George V Field remained with Wiltshire Council as sole trustee of King George's Field – Warminster (number 1086713) (the Trust). This is because for legal reasons it was not possible to include this area in the transfer. Both parties are agreed that it makes no sense for this situation to remain but that legal ownership and control of the whole property should be with one party.

Background

4. On 2 July 2015 Warminster Area Board approved the transfer of Warminster Park to Warminster Town Council in accordance with Wiltshire Council's Community Asset Transfer policy. This approval was subject to certain matters, one of which was that any arrangement for the part of the park which had been dedicated as a King George V Field (shown edged red on the plan at Appendix 1) must satisfy the requirements of the Charity Commission and Fields in Trust. The transfer of all the land requested, with the exception of the King George V Field, has been completed and a temporary arrangement put in place to ensure that the King George V

Field continues to be managed as part of the larger park. The steps set out in this report are those which are necessary to satisfy Charity Commission requirements and ensure the smooth transfer of Legal Title of the remaining land to Warminster Town Council.

5. Warminster Town Council has formally resolved to apply to become the trustee of the King George V Field and has applied to Wiltshire Council to do so.
6. Wiltshire Council hold the King George V Field as sole trustee. Cabinet is the decision making body for the Trust. Decisions relating to the Trust must be made as trustee of the King George V Field. These decisions are set out below.
7. The decisions to be made as trustee are:
 - to make any changes to the Trust documents that may be necessary to permit the appointment of Warminster Town Council as trustee,
 - to appoint Warminster Town Council as trustee,
 - to transfer the Legal Title to King George's Field, Warminster, and
 - to resign as a trustee upon the registration at the Land Registry of the transfer of the Legal Title to Warminster Town Council.
8. The resolution that all necessary legal documentation to enable the above to be done shall be completed is taken in both capacities as there will be both documentation relating to the trust and a land transfer.

Safeguarding Implications

9. None

Public Health Implications

10. None

Corporate Procurement Implications

11. None

Equalities Impact of the Proposal

12. None

Environmental and Climate Change Considerations

13. None

Overview and Scrutiny Engagement

14. Overview and Scrutiny undertook a rapid scrutiny exercise to contribute to the development of the council's revised Asset and Service Devolution

and Community Asset Transfer Policy, which was adopted by Cabinet on 7th November.

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

15. The principal risk that may arise if the proposed decision is not taken is that the current management arrangement fails and Wiltshire Council has to take responsibility for the maintenance of the area back. In addition, this would result in the loss of cohesive management of the whole park.

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

16. There may be a legal risk if the proposed actions are not taken in the correct order. However, the council's solicitor will be heavily involved in the process and will ensure that the process is followed correctly.

Financial Implications

17. As the land is already being looked after by Warminster Town Council financial implications are limited to the cost of dealing with the legal process required to complete the transactions and documents required.

Legal Implications

18. This is a legal process which if carried out correctly will result in the appointment of Warminster Town Council sole trustee of the Trust and the transfer of the Legal Title to the asset held on behalf of the Trust passing to Warminster Town Council.

Options Considered

19. There are two options available in this case. These are:
 - Remain the sole Trustee of the Trust and retain the Legal Title to the land (do nothing)
 - Transfer the trusteeship and Legal title to the land
20. If Wiltshire Council remains the sole Trustee of the land it must retain Legal Title to the land, which will be an island in the middle of the Warminster Town Council landholding. In addition, management of the area will require a separate agreement and there is a risk that at some time in the future the Town Council could decide to stop looking after it.
21. Transferring both the trusteeship and the Legal Title to the land will ensure that the Legal Title and control of the whole park rests with one body. There will be some legal work required to make this happen but this is the best outcome for the long term management of the area.

Conclusions

22. As indicated above, taking the steps required to enable Warminster Town Council to be appointed a trustee of the Trust and, following that appointment, transferring the Legal Title to the town council will result in the best outcome for the future management of this land as it can be managed as part of a cohesive plan for the whole park.

Alistair Cunningham
Corporate Director

Report Author: John Price, Estate Surveyor

Background Papers

The following documents have been relied on in the preparation of this report:

None

Appendices

Appendix 1: Plan