

Eden District Council

**Resources Portfolio
20 June 2011**

**Community Services Portfolio
23 June 2011**

Bampton Play Area

Report of the Director of Technical Services

1 Purpose of Report

- 1.1 To consider the termination of an existing Licence Agreement with The Trustees of Bampton Endowed School and to consider a request from Bampton Parish Council to enter into an Adoption Agreement for the proposed relocated play area in the village.

2 Recommendations:

It is recommended for the Resources Portfolio Holder that:

- a) the existing Licence with The Trustees of Bampton Endowed School is terminated following the relocation of the play area to a new site in the village on the grounds that the Licence is no longer necessary; and

It is recommended for the Community Services Portfolio Holder that:

- b) the new play area provided by Bampton Parish Council is adopted as a variation to the existing agreement on the terms set out in the report.
- c) an agreement for a period of 20 years is entered into with Bampton Parish Council to inspect and maintain the play equipment to be provided on terms which accord with the Council's policy on the adoption of play areas.

3 Report Details

- 3.1 The Council currently maintains a children's play area on a piece of land in Bampton under the terms of a licence with The Trustees of Bampton Endowed School, which was agreed and signed on the 17 December 1996. The Licence is for a period of 20 years and commands a fee of £25.00 on every anniversary of the agreement.
- 3.2 The play area was located on an area of land which was effectively the playing field for the local school. The school has now closed and the Trustees have been reviewing the future of the playing field. This area at the school was located a little distance outside the village of Bampton. Given the uncertainties surrounding the site, and poor location of the site to serve as a village play area, Bampton Parish Council wish to provide an alternative play area which better serves the village.

- 3.3 The decommissioning of the existing play equipment will be undertaken by Bampton Parish Council and disposed of by them. All costs associated with this will be met by the Parish Council.
- 3.4 This report requests that the Resources Portfolio Holder resolves to terminate the Licence Agreement with The Trustees of Bampton Endowed School, in accordance with the terms outlined within the Licence.
- 3.5 A new play area is proposed to be installed on an area of land adjacent to Bampton Memorial Hall. The area of land is not owned by Bampton Parish Council, but a private landowner, who has granted permission for the land to be transferred under Licence for the purpose of a children's play area.
- 3.6 Bampton Parish Council is requesting that the Council agrees to adopt the play equipment on the new play area on the same basis as existing.
- 3.7 The existing play area, which is maintained by the Council, costs £364 for the current year, which covers the cost of the weekly inspections of the play area only. This cost is met from the Grounds Maintenance Contract Budget and charged to the local residents through Special Expenses via their Council Tax. The Parish Council has been informed that, should the new play area design require any additional services, including grass cutting, maintenance of any boundaries, or additional services required to individual items of equipment, or additional grounds maintenance works, then an additional charge will be incurred and the annual fee charged through Special Expenses will increase. A list of the potential additional costs is provided within the Financial Implications section of this report.
- 3.8 The proposed new play area has received formal planning approval from the Lake District National Park Authority; and the Parish Council has secured the funding to purchase and install the equipment. The new play area will be installed by a reputable play contractor and meet the appropriate safety standards for both equipment and surfacing. It is recommended that should the Council resolve to adopt the new play area, then the adoption is subject to the satisfactory findings of a Post Installation Play Area Inspection. The cost of the Post Installation Inspection will be met by Bampton Parish Council.
- 3.9 Once the new play area is installed and the equipment removed from the existing play area there will be no need to maintain the Licence in favour of the Council from the Trustees of Bampton Endowed School. This Licence can therefore be terminated. This report requests that the Resources Portfolio Holder agrees to terminate the Licence Agreement with The Trustees of Bampton Endowed School, in accordance with the terms outlined within the Licence.
- 3.10 Bampton Parish Council is requesting that Eden District Council adopts the new play area on completion, as a replacement for the existing play area.
- 3.11 The policy for the adoption of new play areas was amended by the Council Report TS70-09, 17 September 2009, Minute CI/54/9/09, whereby it was resolved that:
- a) the adoption of children's play areas where the equipment accords with the Specification be continued; and
 - b) a Management Service is offered for those play areas where the equipment does not accord with the Specification.

Under the Management Service the Council would inspect and maintain the area but with the costs being recharged to the local lead organisation.

- 3.12 The Policy states at which a third party organisation accords with the Specification and is therefore considered appropriate for adoption (resolution a) the applicant organisation to deposit to the Council a commuted sum equivalent to the cost of ten years' maintenance in advance of the adoption being approved.
- 3.13 The proposed new play area at Bampton would accord with the Specification for Play Areas, whereby the equipment is aimed at pre-school and pre-teen children. In this instance, if the amended policy is implemented, Bampton Parish Council would be required to deposit a commuted sum to the Council in advance of the adoption. The commuted sum figure cannot be confirmed until the Parish Council has confirmed the services it would require of the Council. Paragraph 5.2.4 outlines the costs.
- 3.14 In considering the adoption of the new play area, Bampton Parish Council has asked the Portfolio Holder to reflect that this Council currently maintains the existing play area under an adoption agreement then this new request may be considered as a transfer to a new site and not a new request for adoption.
- 3.15 Given that the local community has initiated a significant improvement to the play facilities in the parish, at its own expense, it is considered reasonable that the Portfolio Holder agrees to the adoption of the new play area as a replacement for the existing area and, as such, a commuted sum is not appropriate. If such a variation is acceptable, it should be based on the Council agreeing a Licence with Bampton Parish Council to secure the Council's interest in the land for the future maintenance of the play area for a minimum of twenty years. The Portfolio Holder is requested to approve this proposal, subject to the Council agreeing an appropriate Licence.
- 3.16 There will be a cost to the landowner in granting a Licence and this would normally be met by the lessee. As the reason for the relocation of the play area resulted from the actions of Bampton Parish Council, it is considered reasonable that it should meet any costs in formalising the arrangements to facilitate the adoption of the new play area.
- 3.17 The existing Licence Agreement has only 5 years and 6 months remaining. A variation to the existing adoption agreement, as set out above, will commit the Council for a further 20 years, which is an additional 14 years and 6 months to the existing commitment.
- 3.18 The Resources Portfolio Holder is asked to agree to the Council entering into a Licence Agreement with Bampton Parish Council, for a minimum 20 year lease, to enable the Council to maintain the play area under the adoption proposals set out in the report.

4 Policy Framework

- 4.1 The Council has four corporate priorities which are:
- Affordable Housing
 - Quality Environment
 - Economic Vitality
 - Quality Council

Council on the 7 February 2008 agreed fifteen strategic actions to achieve these priorities.

- 4.2 This report meets corporate priority 'Quality Environment'.
- 4.3 This report does not address a strategic action in the Corporate Plan.

5 Implications

5.1 Legal

- 5.1.1 There is a current 20 year Licence from 17 December 1996, with The Trustees of Bampton Endowed School, for the existing play area on land in Bampton. One year's notice ending on 17 December is required to terminate the Licence, but it is expected that a shorter period could be negotiated. Bampton Parish Council is proposing to decommission this play area site and, as such, it is recommended that the Licence Agreement is terminated.
- 5.1.2 Legal work will be required in respect of the Adoption Agreement, which will be completed by the Council's Legal Services Department and the costs are not assumed to be onerous.
- 5.1.3 The Landowner will be required to prepare a Licence Agreement for the land to be used by Bampton Parish Council. The Licence will require a clause allowing the Council to enter onto the land to undertake the inspection and maintenance of the equipment in accordance with the Adoption Agreement with the Parish Council. The costs for the preparation of the Licence will be met by either the landowner or the Parish Council.

5.2 Financial

- 5.2.1 In adopting the Corporate Plan 2011-14, the Council confirmed its use of its stated Resource Allocation Categories. These help the Council prioritise the allocation of funding to reflect corporate priorities. The financial implications of any proposal must be consistent with this.
- 5.2.2 This service falls within Category Z for resource allocation purposes. This category includes services which are a non-corporate priority, and from which the services/resources may be retained at current levels, or reduced and Investment will only be made via external funding (with no unfunded revenue cost). Resources may be reduced via service standard reduction or cessation.
- 5.2.3 The existing play area in Bampton, which is maintained by the Council, costs £364 for the current year, which is met from the Grounds Maintenance budget and charged to the local residents through Special Expenses via their Council Tax. The Parish Council has been informed that any additional services above that already offered at the new play area will result in an additional charge being levied via Special Expenses. These additional costs would need to be met from the Grounds Maintenance budget.

5.2.4 The costs to provide services for the proposed new play area, based on the plan provided by the Parish Council, would be at current rates:

Item	Amount Per Annum	2011-12 Annual Review Increase 59.98%	Total Per Annum
Inspect / Maintain Equipment (actual)	£228.00	£136.75	£364.75
Maintain Board Fencing	£100.00 (estimate)	£59.98	£159.98
Maintain Willow Tunnel (if required)	£50.00 (estimate)	£29.99	£79.99
Mowing (if required)	£76.00	£45.58	£121.58
Litter Bin Emptying (If provided)	£37.00	£22.19	£59.19

5.2.5 The Council will prepare the Adoption Agreement in-house using existing staff resources. All other legal costs associated with the preparation of the Licence Agreement will be met by the landowner and/or Bampton Parish Council.

5.2.6 The play area, following completion, will require a Post Installation Inspection. The cost of this will be met by Bampton Parish Council.

5.2.7 Bampton Parish Council will be responsible for all costs associated with the decommissioning of the existing play area equipment.

5.2.8 The costs to supply and install the proposed play equipment will be met by Bampton Parish Council. The Council is providing no funding towards the installation.

5.2.9 The Community Services Portfolio Holder has been advised of the current policy for the Specification for Play Areas which requires a commuted sum to the value of 10 years' maintenance in advance of an adoption being approved.

5.3 Equality and Diversity

5.3.1 The Council has to have regard to the elimination of unlawful discrimination and harassment and the promotion of equality under the Equality Act 2010 and related statutes.

5.3.2 There are no equality and diversity issues associated with this report.

5.4 Environmental

5.4.1 The Council has to have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

5.4.2 There are no environmental or bio-diversity issues arising from this report.

5.5 Crime and Disorder

5.5.1 Under the Crime and Disorder Act 1998 the Council has to have regard to the need to reduce crime and disorder in exercising any of its functions.

5.5.2 There are no crime and disorder issues arising from this report.

5.6 Children

5.6.1 Under the Children's Act 2004 the Council has to have regard to the need to safeguard and promote the welfare of children in the exercise of any of its functions.

5.6.2 The provision of a children's play area will provide valuable facilities for young people. It is therefore essential that the play area is installed via a reputable contractor and meet the current standards for play equipment and safety surfacing. A Post Installation Inspection report will be required to identify any installation defects or risks associated with the completed play area.

5.7 Risk Management

5.7.1 There is a risk to the Council's reputation if it does not support a community led project.

5.7.2 The requirement for a Post Installation Inspection report will identify any facility defects and provide a risk rating for each item of equipment.

6 Reasons for Decisions/Recommendations

6.1 Bampton Parish Council is wishing to decommission the existing children's play area and relocate to a new site in the village.

6.2 The existing play area is the subject of a Licence between the Council and the landowner to facilitate the Council's maintenance of the play area. This Licence will be superfluous to requirements once the new play area is commissioned. A new Licence will be required with a different landowner to secure the Council's maintenance activities on the new site.

6.3 The variation proposed to the existing adoption agreement recognises the effort of the local community in improving the play facilities in the parish.

S Huddart
Director of Technical Services

Governance Checks:

Checked by or on behalf of the Chief Finance Officer	✓
Checked by or on behalf of the Monitoring Officer	✓

Background Papers: Bampton Play Area File
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