

FORM 1

NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I, Helen Dyke, as Strong Leader, give delegated authority to the Head of Community and Environment Services in consultation with the Cabinet Member for Culture, Leisure and Community Safety, to consider any objections made as a result of the advertisement of disposal of land that constitutes public open space and to take the final decision on disposal in the event of objections having been received.

Cabinet Member for Culture, Leisure and Community Safety

Dated: 10th June 2022

Signed:

A handwritten signature in black ink that reads "H.E. Dyke". The signature is written in a cursive style with a large, looped 'D'.

Leader of the Council

FORM 2

NOTICE OF DECISION OF CABINET MEMBER

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1st December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated to me by the Leader, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
To seek approval for the advertisement of disposal of land that constitutes public open space	To give delegated authority to the Head of Community and Environment Services in consultation with the Cabinet Member for Culture, Leisure and Community Safety, to consider any objections made as a result of the advertisement of disposal of land that constitutes public open space and to take the final decision on disposal in the event of objections having been received.	Approval by Strong Leader is required to enable the disposal of the land, at £1 consideration per property, which is open space and therefore falls outside the Delegation of Executive Functions.	June 2022

I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.

Dated: 10th June 2022

Signed:



Councillor: Graham Ballinger
Cabinet Member

WYRE FOREST DISTRICT COUNCIL

Strong Leader Report

LOCALISM: TRANSFER OF LAND - KIDDERMINSTER

OPEN	
DIRECTOR:	Chief Executive
CONTACT OFFICER:	Kathryn Underhill, Community Services Manager Ext 2956
APPENDICES:	None

1. PURPOSE OF REPORT

- 1.1 To agree disposal of the land, specified in the report, to Kidderminster Town Council.

2. RECOMMENDATION

- 2.1 **The Cabinet is asked to agree the principle of the transfer of the freehold of the following land to Kidderminster Town Council at £1 consideration per property:**

- **Baxter Gardens, Birmingham Road, Kidderminster, DY10 2BX**
- **Broadwaters Park, Broadwaters Drive, Kidderminster, DY10 2RY**
- **St George's Park, Radford Ave, Kidderminster, DY10 2ES**

- 2.2 **The Cabinet is asked to give delegated authority to the Head of Community and Environment Services in consultation with the Cabinet Member for Culture, Leisure and Community Safety, to consider any objections made as a result of the advertisement of disposal of land that constitutes public open space and to take the final decision on disposal in the event of objections having been received.**

3. BACKGROUND

- 3.1 The Localism Act 2011 gave local communities more power to plan for the future of their areas. Discussions and regular negotiating meetings have taken place with all three Town Councils as part of the Council's work on localism, both collectively and individually, in order to agree bold localism deals.

- 3.2 Discussions with Kidderminster Town Council about transfer of a portfolio of parks have been positive, and a localism deal has been discussed. The deal is proposed to encompass:

- **Baxter Gardens, Birmingham Road, Kidderminster, DY10 2BX**
- **Broadwaters Park, Broadwaters Drive, Kidderminster, DY10 2RY**
- **St George's Park, Radford Ave, Kidderminster, DY10 2ES**

3.3 For its part, the Town Council agreed the proposed transfers at its meeting on 18 May 2022, subject to final agreement of the transitional financial support to be provided by the District Council over a maximum period of 36 months. Heads of Terms for the transfers will be drafted, and a joint press release will be published from WFDC and Kidderminster Town Council to announce the outcome of this round of localism discussions with the Town Council once terms have been agreed.

4. KEY ISSUES

4.1 The Council has a funding gap estimated to be £1.68 million by 2024-2025. Work to preserve and protect assets by working with partners to share costs and/or take over responsibility for services is a priority. Without bold and ambitious plans to deliver on this strategy, services most valued by people could be lost e.g., parks, play areas, public conveniences, community development and events.

4.2 Town and Parish Councils can raise money locally through an annual precept to provide services in their local community. Working with our Town and Parish Council Partners to protect services and amenities that our communities value by the transfer or sharing of ongoing costs is a key aspiration of the adopted Medium-term Financial Strategy. Local Councils can use the headroom available to them as a result of not being subject to criteria about “excessive” council tax rise increases, an approach which the Government has confirmed again in the local government settlement for 2022-23.

4.3 Negotiations have been carried out during 2021-22 and 2022-3, building on earlier discussions in 2020, and cover a range of services and assets with a flexible approach being taken to how arrangements can work for the mutual benefit of both parties.

4.4 In respect of Kidderminster, a package has been agreed in principle and this report deals with the formal decision on disposal of land to the Town Council, which requires a decision to be made by Cabinet.

4.5 The section on legal implications below deals with the detailed legal background. In simple terms, the Council has the power under Section 123(1) of the Local Government Act 1972 to dispose of land at less than best consideration (in this case for £1 consideration per property), subject to a process of public advertisement for disposal of public open space.

5. FINANCIAL IMPLICATIONS

5.1 The estimated revenue costs of the 3 parks is £151k in 2022-23. This includes the costs of the toilets and the car park business rates at Broadwaters Park.

5.2 The assets are being transferred on the basis that WFDC will be making a financial contribution towards them with effect from 1 September 2022. A three year grant to Kidderminster Town Council is being negotiated. This is expected to lead to a saving for the District Council of up to £20k in the current financial year rising to the full amount of £151k being achieved during the latter part of 2025-26.

5.3 The medium-term financial strategy will need to be aligned with the outcome achieved in respect of the financial agreement with Kidderminster Town Council,

including the future level of grant funding. By the end of the grant period the full operational cost of the parks will be borne by the Town Council.

- 5.4 The table below shows the potential contribution to our funding gap from the ongoing Localism work that was included in last year’s MTFS as a Cabinet Proposal. These savings are phased over a number of years to allow the Town and Parish Councils to raise their precepts incrementally.

Approved Cabinet Proposal for Generic Localism Savings – re-profiling	Previous MTFS	Latest Position on unachieved savings	Proposed MTFS – rephased	Variance
Year	£	£	£	£
2021-22	14,530	(4,560)	5,440	10,000
2022-23	228,350	196,320	125,000	(71,320)
2023-24	385,770	353,460	353,460	0
2024-25	558,940	526,280	526,280	0

- 5.5 WFDC will meet the cost of advertising the Council’s intention to dispose of the open space land. This is expected to be a low, three figure number based on similar previous advertisements. WFDC also has to meet the costs of the application to Fields in Trust which is mentioned in paragraph 6.5 below.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 Under section 123 of Local Government Act 1972, the approval of the Secretary of State is required for a disposal of land at an undervalue unless the disposal falls within the General Disposal Consent (England) 2003 (“the Consent”). In order to fall within the Consent, the disposal must assist in the promotion of the economic, social or environmental well-being of the area and the difference between the unrestricted value and the consideration accepted must be £2 million or less. The Consent provides that the Authorities should “not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action”. The £2m figure in the consent bites on each separate property rather than the collective value of the three disposals covered by this report, each of which is valued in the Council’s accounts at considerably less than this figure.

- 6.2 It is considered that the proposed disposals to Kidderminster Town Council will protect the public assets and promote the social and environmental well-being of the area by maintaining public open space.

- 6.3 Section 123 of the Local Government Act 1972 stipulates that:

“(2A) A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them.”

- 6.4 This is considered to be relevant to all the sites proposed for transfer. The Council will advertise its intention to dispose of the public open space for two consecutive weeks in the Kidderminster Shuttle. The publication of this notice is required by law and does not mean that the sale of the land will take place. Any comments following the consultation will be taken into consideration before a final decision is taken. The car park at Broadwaters Park is listed in the Wyre Forest (Off Street Car Parking Places) Order 2020 and at the next routine parking review WFDC will look to remove it from the Car Parking Order.
- 6.5 All three of the parks are dedicated as Fields in Trust. The consent of Fields in Trust is therefore required for the transfers, and the Council is submitting applications accordingly and will meet Fields in Trust's costs in respect of the process. The Town Council will separately need to enter its own deed of dedication for these parks so that their protection as a park and green space is continued.
- 6.6 The Council will enter into appropriate discussions with leaseholders and other bodies that have rights in respect of the land proposed for transfer. In simple terms, it is not proposed that the nature of arrangements existing immediately before the point of transfer would alter at the point of transfer although arrangements beyond that point (for example on the expiry of a lease) would be a matter for Kidderminster Town Council.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 This report relates to disposal of land: it is not considered that an equality impact assessment is required, as no change is envisaged to the use of the land at the point of transfer.

8. RISK MANAGEMENT

- 8.1 Appropriate provision will be included in the terms of disposal to protect the District Council's interest.
- 8.2 Otherwise, the principal risk relates to compliance with legislation of disposal of land at less than best value and obtaining consent of Fields in Trust, which are being addressed as set out above.

9. CONCLUSION

- 9.1 The proposed transfer supports the Council's policy on asset transfers and localism. The Cabinet is asked to decide the principle of the transfer of the land specified in this report to Kidderminster Town Council; and to give delegated authority to the Head of Community and Environment Services to take the final decision, having considered any objections made as a result of the advertisement of disposal of public open space.

10. CONSULTEES

- 10.1 Cabinet Member for Culture, Leisure and Community Safety
10.2 Corporate Leadership Team

11. **BACKGROUND PAPERS**

11.1 Circular 06/03 Local Government Act 1972: General Disposal Consent 2003

11.2 Fields in Trust www.fieldsintrust.org www.fieldsintrust.org/field-change-request

12. **APPENDICES**

None.