

HERITAGE, CULTURE AND LEISURE COMMITTEE

4th October 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Land at Surrenden Field, Staplehurst

Final Decision-Maker	Heritage, Culture and Leisure Committee.
Lead Head of Service	Head of Commercial and Economic Development
Lead Officer and Report Author	Jason Taylor, Parks and Leisure Manager
Classification	Public
Wards affected	Staplehurst

This report makes the following recommendations to this Committee:

1. To declare as surplus the land known as Surrenden Field, outlined in red on the attached plan Appendix 1.
2. To authorise the placing of a Public Notice pursuant to Section 123 of the Local Government Act 1972.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all
 - This playing field is important to Staplehurst and helps make the area attractive. The issue of a lease to Staplehurst Parish Council would enable them to make improvements to the site.

Timetable

Meeting	Date
Heritage Culture and Leisure Committee	4 th October 2016

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Council has been approached by Staplehurst Parish Council (SPC) with a request for a longer tenure on the land at Surrenden Field, which is currently leased to them. They would also like to take on Nicholson Walk if the freehold were to be transferred to them for both sites.
 - 1.2 This would require both parcels of land to be declared as surplus by Heritage, Culture & Leisure Committee (HCLC) and the placing of a Public Notice pursuant of Section 123 of the Local Government Act 1972.
 - 1.3 Following the consultation period, any final decision about disposal of the land – and whether any disposal is of the freehold or leasehold - would be taken by Policy & Resources Committee or the Chief Finance Officer acting under delegated powers (subject to the value of the land being less than £100,000).
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2. INTRODUCTION AND BACKGROUND

- 2.1 The freehold to Surrenden Field in Staplehurst and Nicholson Walk, as shown in APPENDIX I, is held by Maidstone Borough Council (MBC).
- 2.2 Currently Surrenden Field is leased to SPC. This lease is for a term of 21 years and expires on 31 March 2019. SPC currently pay MBC a rent of £80 per annum.
- 2.3 The land is protected by a restrictive covenant to be used only as an open space.
- 2.4 The current lease is protected under the Landlord and Tenant Act 1954 and this means that SPC have a right to a further lease on the same terms.
- 2.5 SPC have approached the Council as they would like to invest in the site to improve the drainage and the play facilities (for which S106 monies are available), but before they do this they would require a longer tenure of the site and ideally would like the freehold of the site transferred to them.
- 2.6 Surrenden Field is highlighted in the Staplehurst Neighbourhood Plan 2015-2031 as being part of the 'Village Heart Policy'.

- 2.7 SPC would like control of this site as it is important to the town and feel that by having the freehold it would secure the site as green space for the future. If the freehold is not available then the Parish have asked for a minimum of 125 year lease which would give them security of tenure, enable them to invest in the site and give them added security that the site will remain as green space in the future. However SPC may be unwilling to take over the maintenance of Nicholson Walk.
- 2.8 It has been determined that an independent valuation under Section 123 of the Local Government Act 1972 is not required as there is no alternative non-community use for this site. The proposed disposal would only be at an 'undervalue' if it was realistic to think that the Council could sell or lease the land for a capital receipt or a higher rent. Given the land is protected by a restrictive covenant to be only used as open space it is considered that an independent valuation is not required.
- 2.9 The current lease will expire at the end of the existing term unless it is surrendered by either of the two parties, subject to the ability of both parties to renew the lease pursuant to the provisions of the Landlord and Tenant Act 1954.
- 2.10 This report was originally taken to HCLC on September 6th 2016. At this meeting the committee discussed options regarding the handing over of the freehold to SPC, and SPC's suggestion that they would also take on the adjoining land at Nicholson Walk if they were to be granted the freehold to Surrenden Field.
- 2.11 No final decision was taken by HCLC at the meeting on September 6th but it was requested that officers investigate further the strength of the existing covenants of the land to remain as green space; and include the request by SPC to take over Nicholson Walk subject to the freehold being transferred.
- 2.12 Existing Covenants.
Legal Services have investigated the current covenants on the land and discovered that if the Property is transferred to SPC the transfer can be drafted to include a positive obligation on SPC to continue to comply with the restrictive covenant, together with a requirement to obtain a deed of covenant from any successor in title to SPC to comply with this obligation. This can in turn be protected by a restriction on the freehold title.
- 2.13 Nicholson Walk.
Officers have discussed the disposal of Nicholson Walk further with representatives from SPC and it has been confirmed that if the freehold was given to SPC then Nicholson Walk could be included in

the arrangement. Meaning that the parcel of land transferred to SPC would include Surrenden Field and Nicholson Walk. SPC would take on all management and maintenance responsibilities for both parcels of land. These adjoining parcels of land can be seen in Appendix 1. . Nicholson Walk is not protected by a restrictive covenant requiring the land to be used as open space. However, it is subject to a restriction that no disposition of the land is to be registered unless made in accordance with the Physical Training and Recreation Act 1937 which requires the land to be used for the development of facilities for the encouragement of physical training and recreation and to facilitate the establishment of centres for social activities. If this Property is transferred to SPC the transfer can be drafted to include a restrictive covenant not to use the land for any purpose other than in pursuance of this Act.

3. AVAILABLE OPTIONS

- 3.1 MBC could issue a further 21 year lease to SPC on the same terms as the current lease for Surrenden Field, as is their right under the Landlord and Tenant Act 1954. This would be on exactly the same terms as the current agreement. SPC have indicated that this lease would not be long enough to allow them to carry out the proposed improvement works to the site.
- 3.2 MBC could issue a new 125 year lease to SPC for Surrenden Field with the potential addition of Nicholson Walk. This would give SPC long term security of tenure, which would enable them to invest in the site with the security of knowing that the site will remain as green space for the next 125 years whilst the council would retain the asset.
- 3.3 The freehold for Surrenden Field along with that for Nicholson Walk could be transferred to the Parish Council. This would give SPC full ownership of both sites and responsibility for how they are managed in the future.
- 3.4 When the current lease ends (and without further extension) the site would revert to MBC which would manage it in the future. This is not considered appropriate as the maintenance of the site would be passed to MBC. It would also take away the ability for SPC to invest in improvement of the site.
- 3.5 The current lease could be left in place until it runs out on 31 March 2019, and then a new lease on the same terms would have to be granted to the Parish Council, unless MBC had specific grounds under the Landlord and Tenant Act 1954 to deny such a request.

This is not recommended as SPC require a longer lease of the site to enable them to carry out improvement works. SPC may not be in a position to carry out these works in the future.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is option 3.2, as shown above, that MBC issues a new 125 year lease to SPC for Surrenden Field and Nicholson Walk.
- 4.2 This would give SPC long term security of tenure, which would enable them to invest in the site with the security of knowing that the site will remain as green space in the future with the asset remaining with MBC. PSC could also take on the maintenance of Nicholson Walk if they are agreeable to it being included in the lease.
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5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 5.1 This matter was previously brought to HCLC on September 6th 2016, and has now been brought back following the committee's request for further information.
- 5.2 Consultation will be through the publication of the Section 123 Notice.
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6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 If HCL Committee recommends that Policy and Resources Committee agrees to the disposal of Surrenden Field and Nicholson Walk to SPC then this committee must declare that the land is surplus. The committee would authorise a Public Notice to be advertised declaring that the land is surplus and the intention to dispose of the land pursuant of Section 123 of the Local Government Act 1972.
- 6.2 After the six week period for comments and objections has expired, the final decision on disposing of the land will be taken either by Policy and Resources Committee or the Chief Finance Officer under delegated authority if appropriate.
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7. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
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Impact on Corporate Priorities	Keeping Maidstone Borough an attractive place for all – This playing field is important to Staplehurst and makes the area attractive.	Parks & Leisure Manager
Risk Management	No impact	
Financial	MBC would not receive the £75 per year that it receives from the current lease of Surrenden Field, but the cost to maintain Nicholson Walk would be transferred to SPC.	Section 151 Officer & Finance Team
Staffing	No impact	
Legal	Compliance with the procedural requirements of the Local Government Act 1972 is upheld by the production of this report.	Mid Kent legal Services
Equality Impact Needs Assessment	No Impact	
Environmental/Sustainable Development	The land is already and would continue to be protected by covenants.	Parks & Leisure Manager
Community Safety	No impact	
Human Rights Act	No impact	
Procurement	No impact	
Asset Management	MBC would not have any active asset management obligations if the land was transferred to the Parish Council.	Head of Service & Manager

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

Appendix I: Surrenden Field and Nicholson Walk Staplehurst with boundary shown in red.

9. BACKGROUND PAPERS

None