



Report To:	Executive Board
Date:	22 nd January 2025
Subject:	Proposed Disposal of Council Owned Land. Amos Way and Church Walk, Sibsey
Purpose:	To consider the disposal of surplus Council owned assets to Sibsey Parish Council
Key Decision:	No
Portfolio Holder:	Portfolio Holder - Finance
Report Of:	Andrew Fisher – Joint Deputy Chief Executive – Delivery and Assistant Director - General Fund Assets
Report Author:	Andrew Sweeney – Housing Development Manager
Ward(s) Affected:	Sibsey
Exempt Report:	No

Summary

A number of transfers involving the disposal of Council assets to Town and Parish Councils have completed over recent years. These have been undertaken as part of the asset transformation programme included in the Asset Management Framework 2016-2026. More recently the adoption of the SELCP Asset Management Strategy 2023-26 continues the theme for the disposal of assets that 'support collaboration with public sector partners, charitable and voluntary organisations and other stakeholders' for those assets that offer no strategic value in terms of service provision or viability.

Following a request made by Sibsey Parish Council for the transfer of two assets located at Amos Way and Church Walk in the village, consideration has been given to the request and is detailed in this report.

The report also details the Council's powers to dispose of land and assets under the provisions of the Local Government Act (1973) Section 123 and General Disposals Consent (England) 2003, together with other matters for consideration in deciding on the disposal of these assets.

Recommendations

That the Executive Board:

1. Declare the land at Church Walk and Amos Way Sibsey, edged red on the plans at Appendices 1 and 2, surplus to the Council's requirements;
2. Delegate authority to the Deputy Chief Executive, Programme Delivery and Assistant Director - General Fund Assets to follow the advertising process set out by Section 123 (2A) of the Local Government Act, 1972, in respect the land set out in recommendation 1.
3. In the event that no representations are received by the Council in respect of recommendation 2, rely on the lawful exemptions set out within *The Local Government Act 1972: General Disposal Consent (England) 2003*, agree the disposal of the freehold title of the two plots of land set out in recommendation 1, to Sibsey Parish Council at their restricted market value of £1 each, representing a notional undervalue of £224,998;
4. Delegate authority to the Deputy Chief Executive, Programme Delivery and Assistant Director - General Fund Assets to protect the Council's future position by specifying appropriate Restrictive Covenants within any resulting conveyance, including an 80% overage clause on both assets.

In the event that any representations are made to the Council in respect of recommendation 2, recommendations 3 and 4 cannot take effect and the Executive will need to formally consider any representations made before making a final decision.

Reasons for Recommendations

- The disposal of the assets will enable the facilities to be managed at a local level by the Parish Council and community of Sibsey.
- The assets are not considered to be of any strategic value.
- The assets do not offer any development potential given that they are allocated as protected open space and sport, and recreation uses in the current Local Plan.
- Marginal annual revenue savings will be achieved once the transfer is completed.

Other Options Considered

Retention

- Amos Way is currently leased by the Parish Council on a peppercorn rent. The option to continue the lease has been considered but the asset does not generate income of any significance. Termination of the lease or its continuation would not therefore have any significant adverse effect on the Council's revenue income.

Development

- The opportunity to develop the land has also been explored. The land is however designated open space in the current Local Plan so is unlikely to be supported for other uses without alternative recreation land being provided elsewhere in the village.

1. Background

- 1.1 Sibsey Parish Council contacted officers of the Council expressing an interest in acquiring two areas of ELDC owned land (tabled below), at Amos way and Church Walk. The Parish Council hold a lease on the land at Amos Way. Church Walk is

public open space transferred to ELDC on completion of the housing development to the Eastern side of the A16 trunk road through Sibsey.
Plans showing the location of the two sites are included at **Appendix A**

ELDC Asset Ref	Asset
XX/347/0001	Sibsey Amos Way – Public Open Space
XX/347/0002	Sibsey Church Walk – Public Open Space

Amos Way

- 1.2 The Amos Way site has an area of approximately 0.37 Hectares (0.91 Acres). Part of the land contains children’s play equipment with the remainder used as open recreation space.

A link footpath exists between Amos Way to the South and Vicarage Lane to the North of the land.

- 1.2.1 This land is leased to the Parish Council on a peppercorn rent. The term of the lease is 30 years and ends in 2031. The permitted use of the land under the terms of the lease is as open space and includes for the repair and maintenance of the grounds and equipment included.

Church Walk

- 1.3 Church Walk is an area of 0.15 Hectares (0.37 Acres). The land is currently an open plan grassed area planted with semi-mature trees. Church Walk is accessed off Main Road and is the main spinal road serving arterial estate roads, Harvester Way and Wheatsheaf Close that form part of a wider housing development.

- 1.3.1 The land was transferred to the Council under a s106 open space requirement for the housing development completed by Chestnut Homes.

Context

- 1.4 The asset disposals meet the objectives set out on in the Council’s Asset Management Framework 2016-26 for the asset transformation programme. This aims to dispose of Council assets where they are of little or no strategic value and in progressing the opportunity to work with Parish and Town Councils or other partners in the use and local management of surplus Council assets.

- 1.5 The proposals are also consistent with the SELCP Asset Management Strategy 2023-2028 objectives which state:

- assets may be used, disposed of, or acquired to support collaboration with public sector partners, charitable and voluntary organisations, and other stakeholders.
- the acquisition, disposal or transfer of assets may take place to deliver social value to the community where appropriate.

Operating Costs

- 1.6 Given that the Amos Way land is leased there are no significant management costs incurred by the Council for the land, other than periodic costs for legal and other services associated with monitoring, reviewing, and renewing the lease.

- 1.7 The Council is responsible for the maintenance of the land at Church Walk, including grass cutting, tree and shrub works. The annual cost of maintenance is c£245 per annum. There has been very little work carried out on the trees on the land so the cost of this is negligible and carried out on a reactive basis as and when required.

Legislation

- 1.8 The Local Government Act (LGA) 1972, Section 123, provides that the Council may dispose of land or assets in any manner it sees fit subject to the constraint that, except in the case of leases for less than 7 years, disposal must be for the best consideration reasonably obtainable. However, the Government recognises that there may be circumstances where an Authority considers it appropriate to dispose of an asset at less than best consideration. When disposing of property at an under-value, the Authority must remain aware of its fiduciary duty to Council Taxpayers.
- 1.9 Government policy requires Local Authorities to dispose of surplus land or assets wherever possible. The Asset Management Strategy and transformation programme provisions are consistent with this expectation.
- 1.10 The General Disposal Consent (England) 2003 provides general consent removing the requirement for Local Authorities to seek approval from the Secretary of State for certain disposals at less than best consideration. Authorities are granted such consent in circumstances where the under-value does not exceed £2million and the disposal Authority considers that the disposal is likely to contribute to achieving the promotion or improvement of the economic, social or environmental well-being of the whole or any part of the area (the general power of well-being).
In considering the application of the well-being criteria under the General Disposal Consent, the Council must also have regard to the SELCP Sub-Regional Strategy and reasonably consider the extent, if any, to which the proposed disposal supports its aims and objectives.
- 1.11 It is for the Council to decide whether any disposal meets these criteria or continues to require specific consent under the LGA 1972 Act.
The Council must demonstrate that it has acted reasonably in agreeing under-value transactions in order to be in a position to respond to any potential challenge. Regard must therefore be had to the adopted Asset Management Strategy requirements on the disposal of land for less than best consideration together with the transfer of assets to communities and the Council's fiduciary duty.
The Council's Asset Management Framework states;

'Generally the Council seeks to achieve 'best consideration' in disposing of assets, via a sale subject to competition. In certain circumstances it may be for less than best consideration normally where the disposal will contribute to the achievement of the promotion or improvement of the economic, social, or environmental well-being of the whole or part of the area. On occasions a sale may be negotiated directly with one party, for example a sale to a sitting tenant or a purchaser with a special interest. Any deviation of the principle of best consideration needs to be reported in accordance with the Council's Constitution.'
- 1.12 Sections 123(A) and 127(3) of the LGA 1972 require local authorities to advertise its intentions and consider objections for sites designated as open space. Given that the

land included in the proposed transfer is open space this process will need to take place before disposal of the land.

Transfer Value

- 1.13 An independent valuation report has been commissioned to determine the extent of the undervalue of the assets if disposed of at less than best consideration. The valuation has been prepared in accordance with the Royal Institute of Chartered Surveyors (RICS) UK Valuation Practice Guidance (VPGA) 17.1. A copy of the report is included at **Appendix B**.

Asset Reference	Description	Unrestricted Market Value (£)	Proposed Disposal Value (£)	Undervalue (£)
	Amos Way	£160,000	£1	£159,999
	Church Walk	£ 65,000	£1	£ 64,999
	Total Value	£225,000	£2	£224,998

It is proposed that the Sibsey assets be transferred to Sibsey Parish Council for £1 per asset. i.e. at less than best consideration, given the benefit the proposals will have to community wellbeing. This is consistent with the requirements of the LGA 1972.

- 1.14 The transaction is classed as non-business activity and outside the scope of VAT. As the supply is deemed to be outside the scope of VAT, it allows ELDC to fully recover any VAT incurred on capital or revenue costs associated with these assets, thereby not subject to the Council's VAT Partial Exemption calculation.
- 1.15 Each party to the transfer will pay their own costs for legal fees.

3. Conclusion

- 3.1 The proposed asset transfer meets the objectives of the Council and SELCP Asset Management Strategies in 'supporting collaboration with public sector partners, charitable and voluntary organisations and other stakeholders' and giving greater control at a local level in their management.
- 3.2 After the initial costs to ELDC for legal and valuation services the transfer of the assets will result in an annual saving of c£250 plus periodic costs associated with lease renewals, insurances, and ad hoc tree work.
- 3.3 Following consultation with the Council's Planning Officer the likelihood of planning permission being granted for alternative uses on the two sites is low given that this would result in the loss of recreation space contrary to policy SP 26 in the Local Plan. The asset transfer is not therefore considered to be a lost development opportunity to the Council if the sites are transferred. Right of pre-emption clauses will be included in the transfer contract, consistent with previous assets transferred that may have a longer-term development opportunity.

Implications

South and East Lincolnshire Councils Partnership

The proposed asset disposals are consistent with the aims and objectives of both the Council's Asset Management Framework and over-arching Partnership-wide Asset Management Strategy.

Corporate Priorities

Included in the main report.

Staffing

None

Workforce Capacity Implications

None – The Amos Way land is currently leased and maintained by the Parish Council. The land at Church Walk is maintained by the Council's appointed external grounds maintenance contractor.

Constitutional and Legal Implications

The requirements for asset disposals under the Local Government Act 1972, Section 123 and General Disposals (England) 2003 are detailed in the report. The assets will be transferred for less than best consideration but are considered to meet the specified circumstances of the Annex to the LGA 1972: General Disposal Consent (England) 2003.

Legal Services - Lincolnshire will be instructed to finalise the conveyance for the Freehold transfer of the Council's assets if Members approve the recommendations in this report. Sibsey Parish Council will be required to obtain and fund its own legal representation for the transfer of the assets.

Data Protection

None

Financial

Under the proposal the Council will be disposing of assets with a potential market value of £225,000 for £1 per asset. An undervalue of £224,998. However, the full potential sale value is very unlikely to be realised given current planning policy and the views of the Council's development control officer.

The Church Walk land currently costs the Council c£250, mainly on grounds maintenance. These costs are part of the wider grounds maintenance costs carried out by Glendale. The savings anticipated against the ELDC budgets is therefore expected to be in the region of £250-300 per annum.

The Council currently receive a 'peppercorn' rent under the lease. The disposal of the assets will not therefore result in the loss of any significant revenue income.

Risk Management

Category Risk – State if high medium or low	Action / Controls
Sibsey Parish Council withdrawal from asset transfer - Low	The Parish Council has expressed interest in the transfer of the assets and already manage the Amos Way land under the current lease with the Council. The management arrangements under the current lease terms would continue unless the Parish Council opted to terminate the lease.
Significant undervaluation of transferred assets – Low	The valuation report on the assets has been prepared by an independent valuer in accordance with the RICS Red Book Supplement. The transfer will include restrictive covenants to control the use of the assets. A financial 'clawback' provision or right of pre-emption clause will be included should there be a change in ELDC Planning Policy and the Parish Council seek to pursue alternative uses or sell the land at an enhanced commercial value.
Adverse Publicity - Low	There will be no loss of services to the public resulting from the asset transfer given that the uses will still continue under the management of the Parish Council.

Stakeholder / Consultation / Timescales

In taking forward this asset transfer consultation has been made with the Council's Portfolio Holder, Ward Councillors and internal departmental teams including Planning and Assets.

Under Sections 123(A) and 127(3) of the LGA 1972 the Council will be required to advertise its intentions in a local newspaper for two consecutive weeks and to consider objections from parties responding.

The forecasts for the completion of the asset transfers from legal instructions being issued is currently a minimum of 6 months.

Reputation

Referred to in the Risk section of the report.

Contracts

The current arrangements for grounds maintenance for Church Walk form part of the wider contract works carried out in the district. The savings identified in the report will be made through the omission of the relevant parts of the work from this contract but is not expected to have any significant contractual implications.

Crime and Disorder

None

Equality and Diversity / Human Rights / Safeguarding

None

Health and Wellbeing

None

Climate Change and Environmental Implications

None

Links to 12 Missions in the levelling Up White Paper

None

Acronyms

LGA – Local Government Act.

RICS – Royal Institute of Chartered Surveyors.

VPGA – Valuation Practice Guidance Applications.

Appendices

Appendices are listed below and attached to the back of the report:

Appendix A	Assets Site and Location Plans. Amos Way and Church Walk
Appendix B	RICS Valuation Report

Background Papers

(If none then insert the working 'No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.' Also delete the below text.)

Background papers used in the production of this report are listed below: -

Document title	Where the document can be viewed.
SELCP Asset Management Strategy 2023-2028	Asset Management Strategy - South & East Lincolnshire Councils Partnership
ELDC Asset Management Framework 2016-2026	Asset Management Framework - East Lindsey District Council (e-lindsey.gov.uk)
ELDC Local Plan.	Adopted Local Plan 2018 - East Lindsey District Council (e-lindsey.gov.uk)

Chronological History of this Report

A report on this item has not been previously considered by a Council body.

Report Approval

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Approved for publication: Councillor C. Leyland - Leader of the Council and Portfolio
Holder for Corporate Affairs.

Finance Proforma
Proforma for Approval of the Release of Resources
(Capital and Revenue Budgets)

From:

This Proforma provides the financial implications in respect of the attached report.

Report:

Report Date:

Option 1	£ Year 1 2024/25	£ Year 2 2025/26	£ Year 3 2026/27	£ Year 4 2027/28	£ Year 5 2028/29
Revenue	250	-250	-250	-250	-250
Total Revenue Cost	250	-250	-250	-250	-250

Funding required:

Total capital cost £Nil

Considered by:

Executive Board

Date:

22nd
January
2025

Revenue cost £250/annum

Financial Services Comments

No further comments.

Risk

Detailed in Executive Board Report 22nd January 2025

Procurement

Not applicable

Value for Money Efficiency

Not applicable

This FP is valid for 3 months from FP date	If this FP is no longer required please advise Finance	If there are changes to the original report it may invalidate this document, it must be reviewed by Finance.