

REPORT TO: Place Scrutiny Committee and Executive Committee
Date of Meeting: 8 and 13 September 2016
Report of: Assistant Director Public Realm
Title: Transfer of Exeter's Valley Parks to Devon Wildlife Trust

Is this a Key Decision?

Yes

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1. To decide whether to transfer the City Council's Valley Parks to Devon Wildlife Trust.

2. Recommendations:

Place Scrutiny Committee recommend approval by Executive of the following:-

- 2.1. final business case for the transfer of the City Council's Valley Parks to Devon Wildlife Trust be approved in accordance with the Council's Organisational Change Policy;
- 2.2. the transfer by lease of land owned and leased by the City Council in Exeter's Valley Parks, namely Riverside, Ludwell, Mincinglake, Belvedere and Duryard, Barley Valley and Withycombe Way, to Devon Wildlife Trust (DWT) for a period of 30 years be approved, with the detailed terms to be agreed by the Corporate Manager Property in consultation with the Leader and the Portfolio Holder Support Services;
- 2.3. that the disposal of land be advertised in accordance with the provisions of S.123 of the Local Government Act 1972;
- 2.4. that the principle of the grant of a development agreement and ground lease for a period of 99 years on any land identified between the Council and the Devon Wildlife Trust as suitable for a Visitor Centre be approved;
- 2.5. that the provision of a financial contribution of £425,000 to the Devon Wildlife Trust on transfer be approved; and
- 2.6. that the principle of the Council making an additional £100K contribution in 2022 in the exceptional circumstance where additional investment is required that cannot be found within the Trust's existing resources be approved and that an agreement between the Council and the Trust setting out the specific conditions for the additional payment be delegated to the Assistant Director of Public Realm, in consultation with the Portfolio Holder for Place and the Leader of Council.

3. Reasons for the recommendation:

- 3.1. The transfer of the Valley Parks is a Transformation Plan objective. The Council's operating costs and risks will be reduced, supported by a financially sustainable plan; and the Valley Parks will be enhanced and more widely used;

- 3.2. To support the delivery of the Exe Valley Parks Masterplan and thereby the delivery of Suitable Alternative Natural Greenspace to address the demands that development places on protected habitats. The City's profile and productivity would be boosted by investment in all the Valley Park sites and by the provision of a top quality visitor attraction in a stunning landscape, attracting visitors and investment, supporting tourism and business and supporting the development of world class infrastructure for people to live and work.
- 3.3. To achieve compliance with the Council's Organisational Change Policy in preparation for any transfer to take place.

4. What are the resource implications including non-financial resources.

- 4.1. This proposal will reduce operational costs and the staff establishment by one FTE post. The total cost of the service, net of income is £75,434 in 2016/17 and is likely to rise to in 2020 when the Natural England Higher Payments Scheme expires, although subsidy may be available from a successor scheme. A reduction of 25% has been assumed in the business case. It is not known what implication the exit from the European Union will have on these payments or their equivalents.
- 4.2. The Devon Wildlife Trust requires a single payment of £425,000, the rough equivalent of five years' net current operational costs. They would also like the Council to agree the principal of an additional £100K contribution in 2022 in the exceptional circumstance where additional investment is required that cannot be found within the Trust's existing resources.

5. Section 151 Officer comments:

- 5.1 The section 151 Officer acknowledges the potential benefits in an area that has been earmarked for habitat mitigation. The £425,000 will have to be accounted for at the point of payment, unless specific conditions were attached allowing DWT to only spend one fifth per annum. From the Council's financial point of view, the General Fund Balance can manage a one off hit of £425,000. It is important that the agreement clearly defines the circumstances in which the £100,000 would be called in order to protect the Council's interest.

6. What are the legal aspects?

- 6.1 The subject land is mostly owned freehold by the Council. However, most of Riverside and part of Ludwell are leased. The Riverside lease has 55 years remaining to run. The lease included a clause prohibiting sub-letting without consent. Generally where the clause is silent as to when consent must be granted, the lease is usually interpreted such that the Landlord may not unreasonably withheld consent.
- 6.2 The Ludwell lease has two years to run without restriction on sub-letting.
- 6.3 The Council is obliged to obtain its Landlords consent to assign the leases referred to in this report.

7. Monitoring Officer's comments:

- 7.1 Generally a principal Council may dispose of land held by them in any manner they wish. However, a Council may not dispose of any land for a consideration less than the best that can reasonably be obtained. Put more simply, the Estates team will need to advise as to whether the transactions outlined in this report represent market value.
- 7.2 Furthermore, the Council may not dispose of any land consisting or forming part of an open space unless before such disposal 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. So any disposal outlined in this report must first have been advertised in accordance with the provisions of S.123 of the Local Government Act 1972.
- 7.3 It is accepted that the transfer of the land either freehold or leasehold will impact of Council staff. Given that, the provisions of the Council's Management of Organisational Change Policy will apply and the procedure set out in the Policy must be followed.

8. Business Case for Transfer of Valley Parks

- 8.1. In 2014, the Council undertook a comprehensive review of the potential to divest some of its green space assets to community organisations. During the review an "in-principle" expression of interest in managing the Valley Parks was received from Devon Wildlife Trust. In November 2014, the Executive Committee resolved that "*the expressions of interest in asset transfer already received from Devon Wildlife Trust..... be progressed*" and work has been continuing since then to produce a business plan for consideration by Members and the Board of the Devon Wildlife Trust.
- 8.2. In 2014, budget cuts were a big driver for asset transfer and an annual saving of £37,500 was estimated with this proposal. Members also felt that the Trust would be able to use its considerable resources and experience to encourage greater use of the Valley Parks by our communities and improve the quality of the resource and visitor experience by providing a higher level of biodiversity, conservation, interpretation, information and events.
- 8.3. Devon Wildlife Trust is a registered charity with around 31,000 members, 50 nature reserves covering about 4,500 acres, just over 100 staff and a track record of financial stability. It is closely involved in land and marine management, wildlife surveying, conservation policy and education. They have been working for some years with the City Council to deliver Exeter Wild City: a project founded on a vision of a city which is a place for people and a place for wildlife. Their interest in taking on the management of the Council-owned land in Exeter's Valley Parks develops this principle and provides the Trust with a unique opportunity to upscale their work in Exeter.
- 8.4. In addition, the Valley Parks are a regionally important resource representing significant greenspaces and providing crucial links to, and framing, the City centre; all within reach of all City communities. They are also a potential strategic space for Habitat Mitigation, upon which the future of housing development in and around Exeter is predicated. Close to Exeter, there are 3 special habitats that the Local Authorities need to protect and improving the Valley Parks within Exeter would reduce pressure on these Special Protected Areas. The resulting increase in population in the region will have an indirect impact on the Exe Estuary, which is a protected European wildlife site. The impact of more potential footfall has to be mitigated by law. One of the

elements of the mitigation strategy is the enhancement of suitable alternative natural green space (SANGS), and by making the Parks more attractive for people, particularly those walking the dog, and taking pressure off the estuary and its wild bird populations, existing green spaces have the potential to perform a SANGS function. The Council has identified Riverside and Ludwell Parks as being suitable for this purpose, and it is considered that they can contribute in excess of 70 hectares to overall SANGS requirements if enhanced and maintained in ways which encourage more visitors.

8.5. The Green Infrastructure Strategy for Exeter and East Devon (December 2009) produced by Exeter City Council and other regional partners provides a framework for green infrastructure to be taken into account in planning for the significant amount of new growth in the area. The resultant Exe Valley Parks Masterplan 2015 sets out a long-term vision with many complimentary elements delivered by various partners in the future and has the following objectives:

- An increase in the amount, quality and accessibility of public open space
- An increase in the use of both Valley Parks across all social classes and age groups in Exeter, whilst ensuring that sensitive environmental or heritage features are not damaged;
- Enhancement of natural habitats and associated species, heritage assets, and landscape quality;
- Enhancement of infrastructure to support increased public use, particularly the quality and inter-connectedness of paths, clear signage, information, toilets, shelter, and opportunities to purchase food and drink;
- High quality interpretation and public art;
- Greater opportunities for unsupervised wild play and informal sport and recreation;
- Enhancement of the regional profile of the Valley Parks, and of the national and international profile of the Riverside Valley Park;
- A vision which is at least no more expensive on the maintenance budget for ECC, in real terms.

8.6. At present, the public profile of Exeter's Valley Parks is variable and all of the sites are under financial and human resource strain, with investment needed to bring basic infrastructure up to a good standard, before greater ambitions can be achieved.

The Proposal

8.7. The Valley Parks are a significant asset to the City but they represent a rising cost to the Council and could achieve greater potential if managed by an organisation with dedicated expertise. It is proposed to transfer the full responsibility for the management and maintenance of Council land in designated Valley Parks at Riverside, Ludwell, Mincinglake, Belvedere and Duryard, Barley Valley and Withycombe Way, with the exception of any land contamination remediation which may be necessary at Mincinglake. Plans detailing the exact location of these sites are attached. In addition, owner of land known as Drakes Meadow in Mincinglake Valley Park and the Devon Wildlife Trust are directly engaged in discussions about the Trust taking on that land. It will not, however, form part of this transfer. The sites will remain accessible as public open spaces. The Council employs one member of staff to

manage the Valley Parks and they will transfer to the Devon Wildlife Trust if this proposal is accepted.

- 8.8. The Trust has a vision of the Valley Parks achieving regional leading status for urban green infrastructure provision. The physical resource, in extent and location, is already of exceptional importance. However investment is required to reduce the physical, perceptual and awareness barriers that exist, limited current use, and to increase the quality of the overall offer. The Trust proposes to achieve this through:

Physical improvements:

- Improving and rejuvenating core site infrastructure such as stiles, gateways and welcome areas;
- Consolidating and promoting Trails through the parks, with improved surfacing and managed landscapes to help engender a sense of safety and security;
- Interpreting key natural and historic heritage and creating features in the parks helping visitor flows and natural places to dwell;

Habitat improvements:

- Increasing the habitat diversity and species abundance to provide stunning year-round wildlife displays;

Comprehensive community engagement and education programme:

- Volunteers: The Trust has over 1500 registered volunteers in Devon and will recruit many more from within the City who will support their work through practical assistance and also act as park champions and voluntary rangers;
- Schools programmes: Exeter Wild City has directly engaged with all school aged children in the city over the last 5 years and the Trust will integrate the Parks fully into their existing education programmes;
- Establishing new partnership links with conservation, heritage and community sectors to support the delivery of our ambitious vision.

- 8.9. The above activities, informed by the Masterplan for Riverside and Ludwell, will be funded through DWT's core resources. However the scale of their ambition will only be fully met through securing support from a range of fundraising sources including charitable trusts, grants, corporate sponsorship and SANGS or other development contributions. DWT has a proven track record in successfully securing substantial funds from all these sources.

- 8.10. They propose to invest in an additional Community Ranger post, funded from external funding sources. The additional annual cost of this is estimated at £52,900.

- 8.11. They also seek to generate a sustainable income for the Valley Parks by investing in a flagship destination and visitor centre in Riverside Valley Park, which would offer:

- Visitor and tourist information;
- Creative interpretation;
- Facilities for a variety of visitors' needs and a base for exploration;
- High quality all-weather, all-access trails;

- Rejuvenated and extended wetland habitats;
 - More accessible wetland areas and hides;
 - Natural, cultural and health and wellbeing events;
 - Natural play facilities;
 - Family activities; and
 - A diverse and dynamic education programme.
- 8.12. Potential sources of capital funding include Heritage Lottery Fund, SANGS /CIL, Section 106, Charitable Trusts, structural funds, corporate investment and sponsorship.
- 8.13. The proposal has already received the in-principle approval of the Devon Wildlife Trust Board. The full business plan will be considered by the Board in December.
- 8.14. Significant new residential housing provision is included in the Teignbridge, Exeter and East Devon Local Plans. Any new provision within 10km of European Protected Sites at Exe Estuary, Dawlish Warren and East Devon Pebblebed Heaths requires mitigation due to the likely significant effects arising from increased recreation demands. The Valley Parks hold significant potential to reach larger and new audiences. The provision of enhanced access points, new car parking facilities, trails, and attractions will establish the parks as high quality destinations. Increasing the number of visiting people and time spent in the Parks is a core objective for the Trust and one which will reinforce the role of these greenspaces as SANGS (Suitable Alternative Natural Greenspace).
- 8.15. The vision is for Exeter to be recognised as a national leader for multi-functional green spaces and the objectives of the transfer are:
- The Valley Parks will be better managed and a greater sense of local ownership and pride will be engendered;
 - The City's profile and productivity will be boosted by investment in all the Valley Park sites and by the provision of a top quality visitor attraction in a stunning landscape, attracting visitors and investment, supporting tourism and business, supporting the development of world class infrastructure for people to live and work;
 - The Council's operating costs and risks will be reduced, supported by a financially sustainable plan; and
 - The mission and profile of Devon Wildlife Trust will be raised in Exeter

Financial Implications

- 8.16. The net cost of the Valley Parks, excluding the cost of support services, is £75,434 in 2016/17. This is comprised of:

	£
Staff	30,580
Premises	65,350
Supplies and Services	8,220

Transport Costs	2,930
Income	(31,646)
Net budget	75,434

- 8.17. The income comes from three sources. The Basic Payment Scheme is funding from the Rural Payments Agency for landowners of over 5ha of agricultural land. The landowner is required to use the land for agricultural purposes and maintain the land to a suitable standard. The Higher Level Scheme payment comes from Natural England to manage the most bio-diverse sections of the Valley Parks to a high standard of biodiversity. The management agreement with Natural England for this funding expires in 2020. Three farmers have grazing licences.
- 8.18. The Devon Wildlife Trust is seeking a one-off payment in 2017 of £425,000, roughly equivalent to five years of revenue funding.
- 8.19. In exceptional circumstances beyond the control of the Trust, such as delays in key permissions, community resistance or unsuccessful funding applications, they wish to reserve the ability to request a further £100,000 from the Council (equivalent to a further year's revenue funding) in 2022.
- 8.20. Additionally, some revenue funding will be required to cover the costs of the current lettings tasks that would not transfer with the post (see para 8.22 below). The proposal would break-even in Year 6, subject to the additional £100,000 not being called and over the 30 year lifetime of the proposed lease it is estimated that the council would save around £3m (taking inflation into account).
- 8.21. The land at Mincinglake Valley Park is contaminated and may require mitigation or remediation from time to time. There is no budget for this built into the annual costs of managing the Valley Parks. It presents the largest financial risk to DWT in the transfer and as such it is proposed that the Council will retain its responsibility for land contamination at this site as part of the terms of the lease.
- 8.22. The Corporate Property team advises that the proposition reflects a reasonable overall position for the City Council. Although no wider marketing was carried out it is felt that the particular circumstances of the proposal justify the Council proceeding with the Trust. However, the Council will need to advertise the proposed disposal of the land as open space and will need to consider any objections or comments received before entering into the proposed lease.
- 8.23. The implications for staff are set out in a confidential report later on the agenda.

9. How does the decision contribute to the Council's Corporate Plan?

- 9.1. This proposal supports the Council's Mission Statement to "enhance Exeter as the Regional Capital working with our partners to improve the quality of life for all people living, working in and visiting the city." It will reduce our operating costs whilst continuing to provide amenities that meet people's needs, aligning with the objectives of the Health and Wellbeing Partnership and supporting the community and voluntary sector to achieve a positive outcome for our communities through co-design and co-delivery.
- 9.2. It also supports the delivery of the Exe Valley Parks Masterplan, adopted by the Council in 2015 and the emerging SANGS Strategy.

10. What risks are there and how can they be reduced?

10.1. Reputational risk

The key reputational risk is that the public amenity of the Valley Parks is affected either by poor management or by them no longer being available for public use. A covenant requiring public and community availability on the same or improved basis as now will be built into the lease, along with a simple performance reporting requirement linked to the delivery of the Exe Valley Parks Masterplan objectives. In terms of management risk, Devon Wildlife Trust has been established since 1962 and has a strong track record of delivery. They have clearly defined objectives for the Trust and the Valley Parks, aligned to those of the Council. They are accountable to the Charity Commission for their operational and financial performance. They have over 50 staff with land management expertise and are already responsible for managing over 1200 hectares of land in Devon.

10.2. Financial risks

The largest risk to the Trust's business plan is the failure to deliver the revenue stream from the new building. The building requires both planning permission and funding, both of which are significant risks to delivery. The Trust is confident that it will be able to manage the sites as now without the additional revenue stream so that the risk of failure to deliver the revenue stream would not impact on the council and will merely represent a lost opportunity to further enhance the offer.

10.3. There is also a risk that the Trust may not always have the funds to manage the Valley Parks properly. This can be mitigated by protective provisions in the lease. Provision for defaulting on the terms of the agreement will also be built into the lease. The Council as freeholder would also become responsible for the Visitor Centre in this event and at the very least demolition costs may be incurred. In mitigation, alongside their strong operational track record, The Trust is confident that they will be able to find the funds for management of the parks for the remaining 25 year period.

10.4. Should the Trust go into liquidation between Years 1 and 6 of the 30 year lease, the Council may not be able to recover the upfront revenue contribution. Reviewing the accounts as above this is considered to be a very small risk.

10.5. The risks are considered to be small and outweighed by the benefits should the project go ahead successfully.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

11.1. The equality impact assessment shows no substantive impact on equality and diversity.

11.2. The physical and mental health benefits of being in, and being active in, green space are well documented with research from the University of Essex showing that benefits to mental health could be seen after five minutes of participating in green exercise. Only 24% of people in Devon access urban green spaces compared to the UK average of 37%, with access and lack of transport seen as significant barriers. This

proposal seeks to increase the numbers of visitors to our highly accessible Valley Parks and improve their experience.

12. Are there any other options?

12.1. Yes. The Council could retain its management of the Valley Parks or it could look for another organisation to divest them to. However, this proposal is a strong offer, with low risk, wider strategic benefits and the prospect of considerable savings on the revenue budget after 5 years.

12.2. Alternatively, the Council could commission Devon Wildlife Trust to manage the Valley Parks on its behalf with an improved service for the same outlay or the same service with savings.

SARAH WARD

Assistant Director Public Realm

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

None

Contact for enquires:

Democratic Services (Committees)

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Appendices

- Plans of Valley Parks