

APPENDIX A

Huntingdonshire District Council

**Transfer
of**

**Public Open Spaces
Policy**

Date Approved: xxxxxx

Review Date: xxxxx

Version Draft

Definition

There is no universal definition of public open space for this purpose of this report and policy we refer to Public Open Space as defined in the Town and Country Planning Act 1990 as **land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground.**

This policy applies to public open spaces already owned by Huntingdonshire District Council, land more than 0.25 acres. This policy applies to assets (play equipment) contained within public open space which is greater than 0.25 acres.

Open spaces may be managed under public or local acts of parliament (such as parks and open spaces held under the Open Spaces Act 1906), or under schemes of management (made by local authorities for common land and town/village greens). Land held as "open space" (or amenity land) is considered as held to support the provision of a Council service.

Scope

This policy is limited to public open space **already within the ownership** of Huntingdonshire District Council and therefore excludes creation and ownership of public open space created by new developments determined through the planning process.

Land Under 0.25 Acres

Matters of **small land parcels and disposal of surplus property** owned by the Council are **determined under the Council's Disposal of Small Land Parcels and Disposal Policy** if it no longer meets corporate and/or investment priorities.

A request to lease or licence a small part of a public open space (under 0.25 acres) is delegated to the Senior Leadership Team Member with responsibility for Open Spaces in conjunction with their Executive Member. Any decisions will need to take full account of the reporting requirements and delegations contained within the **Council's Disposal of Small Land Parcels and Disposal Policy** where they apply. A delegated record of decision will be kept and reported to Cabinet for information

Land Over 0.25 Acres

This policy will guide considerations of all public open space **transfers** larger than 0.25 acres and transfers of play areas within land larger than 0.25 acres.

A request to lease or licence a public open space (over 0.25 acres) is delegated to the Senior Leadership Team Member with responsibility for Open Spaces in conjunction with their Executive Member. Any decisions will need to take full account of the reporting requirements and delegations contained within the **Council's Disposal of Small Land Parcels and Disposal Policy** where they apply. A delegated record of decision will be kept and reported to Cabinet for information.

Risk Management

All activity relating to the lease or transfer of public open spaces and play areas will be undertaken within an environment that minimises risk to both services and the capital, or

revenue, investment that has been made. This includes impacts on reputation. There will be appropriate reporting to ensure parties are aware of the risk within any proposal.

Transparency and Fairness

This policy provides a framework which is both transparent and consistent and demonstrates fairness in the consideration of requests to lease or seek ownership of a Council owned public open space.

Any requests will be screened through an informal business case based on the application made (Appendix 1 of the Policy) and an initial assessment of the costs and benefits.

If the outline business case is approved without condition a further detailed business case will be required to gain final endorsement and initial the project to complete the agreed action. This will be subject to the required legal and constitution reporting requirements.

Value for Money

Value for Money is at the heart of how the Council delivers its services. In respect of the leasing/licensing/transferring of public open spaces, the Council will ensure that there is no additional cost to the Council and that resources and expenses are recovered.

Given the unique nature and complexity of individual sites, their potential future uses, land values and benefits to our communities and nature; transfers of open spaces can be complex with issues and costs unique to the sites in question.

Lease or Transfer of Public Open Spaces Policy

- Public open spaces will be greater than 0.25 acres (1,011 square meters) and not considered suitable for development.
- Public open spaces owned by the Council **will not be transferred to third parties unless in exceptional circumstances**, evidenced by a detailed business case where the benefits of doing so outweigh any costs and if the open space no longer contributes to service, corporate and/or investment priorities.
- Public open space will be leased or licensed to facilitate local investments and improvements by third parties which benefit the community in a way that would not be achieved by the Council alone. This will ensure public open space continues its contribution to the delivery of the objectives and outcomes of the Corporate Plan, Climate Strategy and Health Open Spaces Strategy. Any future development including biodiversity gain is retained to support continued management of open spaces.
- If, in an exceptional circumstance, a public open space is transferred to a third party to enable better outcomes, the Council will ensure through covenant/legal agreement that any future benefits of development (including biodiversity gain) will be recovered and that the purpose of the land is preserved for the benefit of community.
- The Council will not transfer or lease any public open space without the costs of doing so being fully funded by the requestor.
- Prior to lease/licence or transfer, partners of the Council may be contacted to determine if there is an alternative use for the public open space.

- The Council will undertake investigations into the legal, planning, financial and other aspects of the public open space before entering any agreements.
- Subject to legislative requirements, the Council will only transfer surplus public open space for the best consideration, where this is not possible or where corporate objectives are not being met, appropriate activity will be undertaken to ensure that the Council maximises any capital receipts. Valuations of land will be undertaken by suitably qualified professionals. VAT and other tax implications will always be considered.
- Persons wishing to lease or seek title to public open space may do so by completing an application. Such applications will be:
 - subject to an application fee of £500 (this does not confirm any rights to purchase and is non-returnable) but covers the initial administrative costs of considering an outline business case.
 - added to the list of sites for consideration by outline business case.
 - be progressed, if endorsed without condition, to detailed business case subject to agreement that all costs are met by the requestor (this does not confirm any rights to lease/title and is non-refundable).
 - if the detailed business case is endorsed without condition through the approvals process required by the constitution and legal requirements, it will be added to a future project list, commencement, and completion subject to all costs being met.
- Any financial benefit from the transfer of public open space will be excluded from the provisions of 10% transfer of sale proceeds to Town and Parish Councils.

Policy Context

S123 Local Government Act 1972 provides that a Council may dispose of land in any manner they wish but they must do so at best possible value. There are specific considerations within the Act such that surplus land may be disposed of to secure the promotion or improvement of the economic, social, or environmental well-being of its area. S123(2A) provides specifically that **a Local Authority may not dispose of land forming part of a public open space without first advertising its intention.**

Public Open Spaces contribute directly to the **achievement of the priority outcomes in our Corporate Plan:**

Priority 1) Improving the quality of life for local people, improving their happiness and wellbeing. Through access to play, recreation, and nature within public open spaces

Priority 2) Creating a better Huntingdonshire for future generations. Through attractive and climate resilient environments within which people want to live and work. Public open spaces contribute to lower carbon emissions and enhancing nature.

The Climate Strategy 2023, set a district wide priority placed by our residents on **increasing biodiversity and natural capital.** This is delivered through the way we maintain the public open spaces that we own and how we influence the maintenance undertaken by other organisations to do the same.

Biodiversity Net Gain, public open space presents an opportunity to expand and develop biodiversity in consultation with our communities who benefit and use the public open space. Biodiversity Net Gain will be a requirement of all new developments that meet the criteria established within the planning process. As a landowner the Council can be paid to deliver off site biodiversity gain which will contribute to the shaping and maintenance of the public open space, minimising the burden on the taxpayer regarding the maintenance and development of public open space for the benefit of nature.

The Healthy Open Spaces Strategy (2020) reflects and recognises that Public Open Spaces are high valued by the residents of Huntingdonshire. 95% of those surveyed had visited an open space in the last 12 months, 64% rated open spaces as essential to quality of life and 98% stated open spaces make themselves and other people happy.

Public Engagement Considerations

The Council's communication and democratic services team will be consulted to ensure that any lease or transfer is undertaken in a proportionate way.

Council Ward members will be consulted prior to any transfer of public open space.

Consideration will be given to the statutory requirements of the Local Government Act 1972 and the Town and County Planning Act 1990.

Any agreement to lease/licence or transfer public open space will be conditional on evidence of adequate public consultation by the requestor to evidence that any plans used to justify that the lease/licence or transfer meets the needs of, and are supported by, the local community.

Performance Management

If receipts exceed £10,000, these will be Capital Receipts and will be accounted for as such that will be assessed annually as part of the routine budget monitoring cycle.

There will be ongoing monitoring of applications for leases/transfers between the responsible officers and the parties selling or otherwise concerned with the disposal.

There will be appropriate reporting to Corporate Management Team where performance is in question.

Resources

The lessor or applicant will meet all legal (and ancillary costs) of the Council. In the event of transfer the applicant will be charged a fee for the administration of the transaction, as set out in the **Disposal of Small Land Parcels and Disposal Policy** which covers any formal decision making and associated administration. In addition, the costs detailed below will be met by the lessor or applicant:

Charges Lease/Transfer of Public Open Space to Other Public Bodies

Consideration	Minimum Fee (Actual to be confirmed in detailed business case)
Open Spaces Management – Preparation of Outline Business Case – Application Fee	£500

Open Spaces Management - Preparation and review of detailed business case including committee reporting	£3,000
Land Valuation	£1,000
Legal Fees	£1,000

* These charges exclude all other ancillary costs. Further it is the minimum charge that any applicant will pay. If any sale requires additional resources, officer time beyond what would reasonably be expected, the purchaser will be required to meet this.

The financial thresholds will be reviewed every 2 years.

Governance

The Council will have regard to all statutory and local regulations, including reporting to Corporate Management Team and in line with the Constitution.

Initial Application

Any applications to lease/licence or transfer a public open space will be considered by Senior Leadership Team member with responsibility for Open Spaces as an Outline Business Case in consultation with the Executive Councillor for Open Spaces. Refusal at this stage is final. A new revised application may be made upon payment of additional fee. A record of delegated decision will be made and reported to Cabinet for information.

The progression of lease and licence is then delegated to the Senior Leadership Team member with responsibility for Open Spaces.

Successful Outline Business Case for Transfer

Only if a transfer is endorsed without condition as an Outline Business Case and payment of any required fees, will the work commence on the detailed business case for a transfer.

The detailed business case will then be **considered formally** with reporting to Senior Leadership Team the appropriate Overview & Scrutiny Panel and Cabinet. Additional reporting may be required taking account of any requirements set out in the **Disposal of Small Land Parcels and Disposal Policy**

Changes to Process of Consideration

The process of consideration of any proposals and changes to that process will be delegated to the Senior Leadership Team member with responsibility for Open Spaces.

Policy Change

Any policy change will be subject to the formal reporting requirements set out in the Council's Constitution.

Appendix 1 – Proposed Form of Application

The Council will require an application to be submitted by anyone requesting the transfer of public open space.

Details of Requestor

- Their name and role
- Their authority to make the request, what approvals or report is in place.
- Contact details for all queries.

Request Summary

An executive summary of the proposal, location, commitment, and benefits

Objectives and Goals

- What land it wants?
- What it plans to do with the land (or play/sport facilities) and why
- How its plans will help the community, what need is it responding to
- How the plans will enable the delivery of the Council's Corporate Plan and its Objectives
- How the plan fit with their organisational goals and objectives

Proposed Fit with Huntingdonshire District Council's Corporate Plan

A statement of how the applicant believes the proposal will deliver positive outcomes against the Corporate Plan.

Details of Request

- The specific area of public open space the proposal relates to.
- Whether other people agree with what the requesting body plans to do.
- If it wants to buy or rent or have other rights in the land
- How much it wants to pay.
- How it will get money to carry out its plans
- How any costs of transfer will be met.