

## St Bees Beach Play Area Project

**EXECUTIVE MEMBER:** Councillor Hugh Branney, Portfolio Holder for Leisure, Culture and Youth

**LEAD OFFICER:** Keith Parker, Head of Neighbourhoods

**REPORT AUTHOR:** John Davis, Parks Manager

### **RESIDENTS? WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND**

Improved play facilities for both residents and visitors to one of the most popular coastal settings in the Borough.

### **WHY HAS THIS REPORT COME TO THE EXECUTIVE?**

**(eg Key Decision, Policy recommendation for Full Council, at request of Council,etc.)**

To seek approval to (a) the Council disposing of land at St Bees Beach for the purposes of the St Bees Play Area Project ('the Project'), (b) to contribute £40,000 from the Capital Programme to support its development; and (c) to seek approval for the Council to be the accountable body for the Project up to a grant value of £150K

### **RECOMMENDATIONS:**

That:-

- (a) approval be given to the principle of the Council granting a lease to the St Bees Parish Council to enable the Project to be progressed with the decision to grant a lease (and an agreement for lease) and the approval of the detailed terms of such lease including area, terms and rent being dealt with in accordance with contract procedure rule 28.8 except that should the relevant value of the land to be leased fall within the range of delegation to the Executive that the matter be delegated to the Head of Neighbourhoods in consultation with the Head of Corporate Resources and the Portfolio Holder provided that prior to such decision to grant being made any responses to the statutory notice relating to disposal are taken into consideration and that if material objections are received that the matter be referred back to the Executive; b) subject to (i) detailed terms of the proposed lease being agreed with the Parish Council and (ii) the grant position, referred to in recommendation (c) below being, in the opinion of the Head of Corporate Resources, acceptable to the Council that the £40k capital funding already approved for the upgrading of this play area be made available to the Parish Council as match funding for enhancements to the play area, and if necessary carried forward to 2013/14; and
- c) Executive recommend to Full Council that the Council, in principle, facilitates the delivery of the project by acting as project manager and as accountable body, for grants

of up to £150,000, subject to any conditions attached to such grants being, in the opinion of the Head of Corporate Resources, acceptable to the Council.

## **1. INTRODUCTION**

- 1.1 The play area at St Bees foreshore is owned by this Council. A capital budget of £40K for necessary but limited works to replace play equipment reaching the end of its design life was approved at Executive on 27 September 2011 as part of a larger sum agreed for expenditure on play area improvements across the Borough.
- 1.2 Plans were in place to spend that budget in the last financial year 2011/12 on essential replacements. However, St Bees Parish Council ('the Parish Council') approached officers with a request to use this money as match funding to support a larger scheme. As a result, the funding was carried forward into the current financial year (Executive decision of the 27/03/12 applies).
- 1.3 The Parish Council with assistance from the officers have moved forward with this Project, consulting with the local residents and the local primary schools. At this stage the Project is likely to include drainage works and upgrading and extension of the play area within the financial envelope afforded by the Parish Council's fund raising up to a current maximum expenditure of £150,000.
- 1.4 In parallel the Council has been developing its policies towards community asset transfers and while such an approach may not be appropriate in all circumstances, the Parish Council have accepted the principle that the play area and its immediate footprint, as per the plan at Appendix 1, is leased to them for a 25 year term.

## **2. PROPOSALS**

- 2.1 The Parish Council, in addition to acquiring a lease, have asked this Council to project manage and to be the accountable body for the scheme with the Parish Council retaining responsibility for fund raising capital costs and for funding ongoing maintenance and insurance. Accordingly it is recommended that the Council project manages the scheme in return for a management fee of 15% of the total project spend. This 15% will cover the costs of delivering the project.
- 2.2 The £40,000 capital funding already approved as match funding for this Project will be used to attract up to an additional £110,000, with it being agreed that the Parish Council will undertake the fund raising activity. The Council will therefore be acting as accountable body for £110,000. At this stage there needs to be

some flexibility with this amount and recommendation (c) caps the risk exposure to £150,000 although this is likely to be nearer the £110,000 level. It is also not known at this stage what risks of clawback and other conditions the grants will bring. This needs to be carefully considered although the risks here in dealing with a Parish Council will be significantly lower than dealing with a non-statutory body.

- 2.3 As part of the lease the Parish Council will have full maintenance, repair and insurance liability for the whole area transferred including any play equipment placed on the land. As the Council will be acting as project manager and commissioning the Project it is likely that there will be an agreement to enter into a lease first with this Council then drawing down the grants, engaging a contractor to install the new play area and effectively signing it off as completed. It will then transfer to the Parish Council. To ensure that the Parish Council is tied into the arrangement there will be an agreement to enter into a lease prior to grants being drawn in and a contractor engaged. On completion of the works the lease itself will be completed. The proposed principal terms of the lease are likely to be:

Area:	As shown on the attached plan with a right of access for maintenance purposes over a designated part of the adjacent car park to the public highway;
Term:	25 years;
Rent:	£1 per annum;
Insurance:	Parish Council to insure against third party liability;
Repair:	Parish Council to be responsible for all repairs to the land and new play equipment; Parish Council to carry out regular inspections to ensure equipment is safe;
Assignment/ Subletting:	Prohibited;
Use:	Restricted to play area use only;
Termination:	For breach of repairing or of other standard terms. For anything which may lead to a potential claw-back of grant.

- 2.4 The Parish Council may decide to use a contractor to inspect and carry out repairs. This may well be this Council. Such arrangement will be regulated by a

separate contract. The Parish Council would be expected to reimburse this Council all costs associated with such work.

- 2.5 There is a significant amount of work to be done on this project with a number of uncertainties remaining, particularly around the intended grant funding. At this stage members are asked to endorse the way forward in principle leaving the details of the lease to be dealt with in accordance with contract procedure rule 28.8. Who authorises the lease will depend on a valuation to be carried out. Such valuation is necessary as the transaction will be at less than best consideration. This means that it cannot take place unless the Secretary of State's consent is received. A general consent exists which allows such a disposal if it will support economic, social or environmental well being and the value of the reduced value of the disposal (supported by a valuation) is less than £2m. In this case the proposal supports social well being in the sense of recreational use. If the value is between £100k and £250k then the matter is delegated to the Executive and members, having approved the principle, are asked to delegate the lease decision making in this case to the Head of Neighbourhoods.
- 2.6 The land is open space. This means that prior to a disposal being made notice of such is placed in a local newspaper for two consecutive weeks of the intention to dispose and that any objections received in response thereto are considered. The recommendation at (a) allows this to happen.

### **3. ALTERNATIVE OPTIONS TO BE CONSIDERED**

- 3.1 The Council withdraws the £40K Capital match funding and use this funding to replace and update existing equipment only. This will leave this Council with continuing liabilities in respect of inspection, maintenance and insurance which will not be recovered.
- 3.2 Do nothing, This would result in the existing play equipment falling into disrepair and eventual removal and not being replaced. A large part of the existing equipment is now at the end of its serviceable life.

### **4. CONCLUSIONS**

- 4.1 If agreed these proposals reduce the Council's liabilities in relation to the facilities at St Bees foreshore whilst at the same time enabling the local community to enhance the play area and prolong its beneficial life to the benefit of both residents and visitors.
- 4.2 With the Council acting as project manager for this scheme allows the Parish Council to benefit from the economies of scale and expertise held at the Borough Council level. At the same time, recognising accountable body status

acts as a real demand on time and resources, the payment of a management fee compensates us for the input made. It will not however overcome the risks of grant claw back although as stated in paragraph 2.2 these risks are mitigated by the legal status of the other party.

## **5. STATUTORY OFFICER COMMENTS**

- 5.1 The Monitoring Officer's comments are: The report takes into account all legal requirements.
- 5.2 The Section 151 Officer's comments are: The capital programme agreed at Council in February 2012 includes the £40K for this project, it is intended that all other costs to the council will be reimbursed through the project and accountable body management fee. There is a risk that the Parish council are unable to attract the additional investment and any such funding may have a clawback arrangements. The details of the CAT therefore need to safeguard the council accordingly.
- 5.3 EIA Comments , The provision of this play Area will ensure that facilities are openly available for the Young people both locally and visitors and will ensure that disabled access is available.
- 5.4 Other consultee comments, if any: None.

## **6. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?**

- 6.1 The Councils Parks Manager and designated Neighbourhoods officer will continue to liaise directly with the Parish Council to ensure all aspects of the proposals are clear and all liabilities under the terms of the approval are met.
- 6.2 The Council will work jointly with the Parish Council to write the specification for equipment and installation, reviewing tenders, and selecting preferred suppliers
- 6.3 The council will be responsible for placing the contracts and for making payments.

## **7. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?**

- 7.1 The Council will receive the benefit of reduced maintenance liability on the land .
- 7.2 The Council will be seen to be proactively supporting local groups wishing to improve their natural environment and facilities.

**List of Appendices**

Appendix A – Area Plan

**List of Background Documents:**

**None.**

## St Bees Play Area Project

