

Report to: Lead Member for Transport and Environment

Date of meeting: 20 January 2020

By: Director of Communities, Economy and Transport

Title: Countryside Access Strategic Commissioning Strategy: Future Management of Countryside Sites

Purpose: To seek approval for the disposal of four countryside sites.

RECOMMENDATIONS: Lead Member is recommended to approve the following disposals and delegate authority to the Director of Communities, Economy and Transport to complete the necessary agreements:

- (1) The transfer of the freehold of Seven Sisters Country Park to the South Downs National Park Authority (SDNPA);**
 - (2) The disposal of Ditchling Common Country Park to the Sussex Wildlife Trust for a peppercorn rent through a long lease with the s. 106 funds for the Ditchling Common Management Contribution (c £400k) also transferred;**
 - (3) The transfer of the freehold of Ouse Estuary Nature Reserve to Newhaven Town Council;**
 - (4) The disposal of Riverside Park by way of a lease to Newhaven Town Council, noting that a former decision dated 19 March 2013 relating to the transfer of the Riverside Newhaven site was aborted; and**
 - (5) Authorise the Director of Communities, Economy and Transport to approve the final terms for the above 4 disposals.**
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1 Background Information

- 1.1. In June 2017, Cabinet approved the Countryside Access Strategy which proposed that eight of the ten countryside sites owned and/or managed by East Sussex County Council (ESCC) would be considered for disposal to suitable external organisations.
- 1.2. The eight sites considered for transfer include: (1) land at Broomhill and Camber Sands, (2) the management of Chailey Common Local Nature Reserve, (3) Ditchling Common Country Park, (4) Ouse Estuary Nature Reserve, Newhaven, (5) land at Riverside Park, Newhaven, (6) Seven Sisters Country Park (SSCP), (7) the part of Shinewater Park in Eastbourne owned by ESCC and (8) the management of Weir Wood Local Nature Reserve.
- 1.3. Cabinet agreed in June 2017 for discussions with external organisations in relation to these countryside sites to continue and delegated the implementation stage of the Strategy to the Lead Member for Transport and Environment.
- 1.4. In June 2019, the Lead Member for Transport and Environment approved:
 - the publication of public notices advertising the intention of the County Council to transfer up to five of these sites (land at Broomhill and Camber Sands, Ditchling Common Country Park, Ouse Estuary Nature Reserve, Riverside Park and Seven Sisters Country Park) subject to agreement of the terms of transfer with the organisations highlighted in the June 2019 report;

- the award of preferred bidder status to South Downs National Park Authority (SDNPA) with a view to transfer the freehold of Seven Sisters Country Park, and;
- the publication of a public notice informing the public of the intention of the County Council to transfer Seven Sisters Country Park and to agree the terms of any transfer.

2. Supporting Information

2.1 Public Notices

2.1.1 Public notices relating to the proposed disposal of public open space land were published in local newspapers for two consecutive weeks as required under Section 123 (2a) of the Local Government Act 1972. The outcomes of these were

- No responses or objections were received to the proposed transfer of Seven Sisters Country Park;
- A total of 31 responses were received to the public notice for Ditchling Common Country Park, 21 of which were objections. These were generated principally through an erroneous rumour on social media that the County Council intended to sell Ditchling Common for housing. All objections were replied to with a clarification and 88% responded by withdrawing their objection, while the remainder either could not be contacted (2 persons) or failed to respond to the clarification (1 person);
- No responses or objections were received to the proposed transfer of Ouse Estuary Nature Reserve and lease of Riverside Park.

2.2 Transfer of Countryside Sites

2.2.1 Terms have been negotiated, in principle, for the transfer or lease of four of the countryside sites.

Seven Sisters Country Park

2.2.2 The SDNPA has submitted a final offer to the County Council outlining a number of commitments including:

- Immediate Phase 1 capital investment of £1.4 million to improve visitor facilities at Exceat with ambition for investment of over £10 million in the coming years to create a world class visitor centre with a focus on climate change and a climate change study centre for farm management;
- Potential to develop a Joint Venture with ESCC Buzz Active at the Country Park;
- A guarantee of no increase in parking charges for three years;
- An annual payment of £35,000 indexed to RPI for 25 years to ESCC;
- To work with ESCC and interested partners on future management options for Chailey Common.

2.2.3 The SDNPA have also outlined how they intend to make further improvements to the Park to significantly improve the visitor experience subsequent to the initial £1.4 million investment. The SDNPA ambition is currently for a further £13m, but this will be dependent on successful bids for funding including an ongoing application to the National Lottery Heritage Fund.

2.2.4 The terms of the transfer of Seven Sisters Country Park as shown in Plan 1 have been negotiated and agreed in principle and include:

- Transfer of the freehold subject to (a) agreement for the leaseback of the Canoe Barn to ESCC for use by Buzz Active or similar arrangement and (b) reservation of land in Brooks Meadow for the construction of Exceat bridge (see Plan 1);
- Completion of a voluntary land access dedication under S16 of the CROW Act 2000 that would provide the permanent right of public access to land at the Country Park;

- A clause providing ESCC with (a) the requirement that ESCC be asked for their approval for the disposal of any land or property at Seven Sisters Country Park and (b) the option to acquire for £1 any asset which the SDNPA seek to transfer, dispose or gift from within the Country Park;
- ESCC elected Member representation on the Board of any operating company.

2.2.5 These terms are subject to consent from the Secretary of State in relation to a transfer of the Country Park. This application has been drafted and will be submitted subject to the approval of the Lead Member for Transport and Environment for the transfer of the site.

2.2.6 Further work in relation to the transfer of Seven Sisters Country Park will include agreement of terms for the Canoe Barn leaseback, or another arrangement that will enable BuzzActive to operate on the River Cuckmere in light of recent flooding. This leaseback arrangement is also subject to clearance by HMRC (see 3.2).

2.2.7 If approved, it is anticipated that the transfer can be completed with SDNPA planning Phase 1 renovations in the winter of 2020/21.

Ditchling Common Country Park

2.2.8 The terms of the lease of Ditchling Common Country Park as shown in Plan 2 to Sussex Wildlife Trust (SWT) have been negotiated and this will be subject to final approval by the SWT trustees in early 2020. The terms include:

- The letting of the site on a long leasehold basis at a peppercorn rent;
- The permitted use would be as a country park and the site will be managed to deliver the ESCC Countryside Access Strategy;
- SWT to take responsibility for all assets such as fences, car park and barriers;
- Transfer of the remaining term of the 2013-2023 Higher Level Stewardship agreement;
- An agreement to ensure public access is guaranteed at the site;
- ESCC and SWT will prepare a transitional handover plan to ensure continuity.

2.2.9 Land at the main entrance to St Georges Park is part adopted highway, and part ESCC owned, but has been managed by the proprietors of St Georges Park (The Trustees Of The Charity The Order Of St Augustine Of The Mercy Of Jesus) for many years. The proposal going forward is to formalise this arrangement and to offer to transfer land parcels whether by sale, long lease or management agreement to the owners of St Georges Park. This will be taken into account with the long leasehold proposal to the SWT.

2.2.10 In addition, ESCC will enter an agreement with SWT for the use of the S106 Ditchling Common Management Contribution fund of about £400,000 held by the County Council. These funds form part of the S106 agreement associated with the Kingsway housing development in Burgess Hill, which borders the country park. The funds are for improvements in the management of Ditchling Common Country Park and mitigation of the impacts of the housing development on Ditchling Common Country Park given its designation as a Site of Special Scientific Interest (SSSI).

Ouse Estuary Nature Reserve, Newhaven

2.2.11 The transfer of the freehold of Ouse Estuary Nature Reserve as shown in Plan 3 to Newhaven Town Council (NTC) was approved by The Town Council in July 2019. Since then the terms have been agreed as follows:

- The site will be managed as a Nature Reserve as part of the Tide Mills Local Wildlife Site in accordance with Ouse Estuary Nature Reserve Management Plan 2013-2023;
- Transfer of 20 Basic Payment Scheme (BPS) entitlements from ESCC to NTC;

- Transfer of the remaining term of the 2013-2023 Higher Level Stewardship agreement;
- Transfer of other agreements associated with the site such as those relating to Great Crested Newt mitigation and compensation at local development sites.

Riverside Park, Newhaven

2.2.12 The disposal of Riverside Park, a former landfill site, as shown in Plan 4 to Newhaven Town Council will be on a leasehold basis. The land at the park is part owned by ESCC and part owned by Lewes District Council (LDC). The lease is being coordinated with LDC with a common set of terms agreed for the lease of land from both Local Authorities. These terms include

- Long lease of the site at a peppercorn rent with a break clause;
- The site will be managed in accordance with Riverside Park Management Plan 2016-2025 and additional management plans will be created beyond that.
- There will be restrictions on use in terms of any disturbance of the surface of the land that comprises the former landfill site with consent from ESCC required for any works on former landfill land at the site;
- ESCC will reserve access for the purposes of monitoring and maintaining infrastructure associated with the site's status as a former landfill site.

2.2.13 The Lead Member is asked to note that a former proposal to transfer the land to a private sector company was aborted and thus the formal decision from the Lead Member for Community and Resources dated 19 March 2013 is otherwise rescinded.

Other Sites

2.3 At present there is no suitable organisation prepared to take on the management of **Chailey Common LNR**. Discussions have been had with landowners and others with an interest in the LNR, and the intention is to (a) address some short-term management issues, (b) clarify some long-term management issues such as liability for fencing and (c) complete a revision of the LNR agreement. Discussions will be continued with interested parties for the long-term management of Chailey Common LNR.

2.4 Rother District Council had expressed interest in the ESCC land at **Broomhill and Camber Sands** and discussion are ongoing.

2.5 ESCC will continue to manage its part of **Shinewater Park** in Eastbourne and **Weir Wood LNR** near Forest Row. Discussions will be held with stakeholders in terms of the future management of these sites by the ESCC Countryside service.

3 Financial Issues

3.1. The business case for the transfers and long leases is being realised by the transfer and lease of these four sites and is financially viable for ESCC, a condition for the disposals that is contained in the Countryside Access Strategy approved by Cabinet in June 2017.

3.2 The Stamp Duty Land Tax (SDLT) and VAT tax issues associated with the arrangements have been explored and found not to be an obstacle to the transfers and leases. However, regarding the Seven Sisters Country Park transfer, clearance is currently being obtained from HMRC relating to a possible risk that an Exchange Rule status could be triggered relating to the leaseback of the Canoe Barn to ESCC/BuzzActive. If HMRC's view is that the SDLT Exchange Rules do apply to the lease back of the Canoe Barn this could create a significant SDLT liability for SDNPA as well as ESCC. If HMRC's view is that the SDLT Exchange Rules do apply to the lease back of the Canoe Barn, the SDLT liability would be mitigated by removing the Canoe Barn from the freehold transfer as agreed with SDNPA. The transfers will not significantly affect ESCC VAT partial exemption calculation.

4 Legal Issues

4.1 For the lease of Ditchling Common Country Park to the Sussex Wildlife Trust, the byelaws will need to be amended to enable them to be exempt from the byelaws in terms of their management of the site. This will require consent from the Secretary of State.

5 Risks

5.1 The most significant risk is for the Secretary of State to not consent to the disposal of Seven Sisters Country Park to the SDNPA for less than best consideration. Although we cannot prejudge this, we propose to wait for this consent before executing any site transfers in order to manage the risk of this outcome.

6 Conclusion and Reasons for Recommendations

6.1 Public notices have been issued and terms negotiated, in principle, for the transfer or long lease of four countryside sites as directed by the Lead Member in June 2019 with outcomes that meet the objectives and terms of the ESCC Countryside Access Strategy approved by Cabinet in June 2017.

6.2 Lead Member is recommended to approve the following transfers and long leases and delegate authority to the Director of Communities, Economy and Transport to complete the necessary agreements:

1. The transfer of the freehold of Seven Sisters Country Park to the South Downs National Park Authority (SDNPA);
2. The disposal of Ditchling Common Country Park to the Sussex Wildlife Trust for a peppercorn rent through a long lease with the S106 funds for the Ditchling Common Management Contribution (c £400k) also transferred;
3. The transfer of the freehold of Ouse Estuary Nature Reserve to Newhaven Town Council;
4. The disposal of Riverside Park by way of a lease to Newhaven Town Council, noting that a former decision dated 19 March 2013 relating to the transfer of the Riverside Newhaven site was aborted; and
5. To authorise the Director of Communities, Economy and Transport to approve the final terms for the above 4 disposals.

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Director of Communities, Economy and Transport

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LOCAL MEMBERS

The table below sets out the County Council Members that have the eight countryside sites considered for transfer to another suitable organisation in their electoral division.

<u>Site</u>	<u>Local Councillor</u>
Camber Sand Dunes/Johnson's Field	Cllr Keith Glazier
Chailey Common Local Nature Reserve	Cllr Jim Sheppard
Ditchling Common Country Park	Cllr Sarah Osborne
Ouse Estuary Nature Reserve	Cllr Darren Grover
Riverside Park	Cllr Sarah Osborne
Seven Sisters Country Park	Cllr Stephen Shing
	Cllr Phil Boorman
Shinewater Park	Cllr Alan Shuttleworth
	Cllr Colin Swansborough
Weir Wood Local Nature Reserve	Cllr Roy Galley

Appendices

Appendix 1 – Final Submission from South Downs National Park Authority for the transfer of Seven Sisters Country Park.

Plan 1 – Land at Seven Sisters Country Park to be transferred to the South Downs National Park Authority.

Plan 2 – Land at Ditchling Common Country Park to be transferred to the Sussex Wildlife Trust.

Plan 3 – Land at Ouse Estuary Nature Reserve to be transferred to the Newhaven Town Council.

Plan 4 – Land at Riverside Park to be transferred to the Newhaven Town Council.

BACKGROUND DOCUMENTS

[Lead Member Countryside Access Strategy: progress update](#) – 16 July 2018

[Lead Member Countryside Access Strategy: Future Management of Countryside Sites](#) - 17 June 2019

[Countryside Access Strategy document](#)