

## **BRECKLAND DISTRICT COUNCIL**

**Report of:** Councillor Paul Hewett, Executive Member for Property and Projects

**To:** Full Council 14<sup>th</sup> October 2021

**Author:** Zoe Footer, Strategic Property Projects Manager

**Subject:** Neatherd Moor, Dereham – transfer of management responsibilities

**Purpose:** The Council is asked to approve the release of £125k from the Inclusive Growth Reserve to enable Breckland Council to delegate its current management responsibilities of Neatherd Moor to Dereham Town Council.

### **Recommendation(s):**

To approve the release of £125k from the Inclusive Growth Reserve and for Breckland Council to delegate its current management responsibilities for Neatherd Moor to Dereham Town Council.

## **1. BACKGROUND**

1.1 Dereham Town Council (DTC) own the freehold of the Neatherd Moor Common in Dereham which is in total c.47 acres. There is a management agreement in place for this Common dating back to 1910 which obligates Breckland District Council (BDC) to undertake various responsibilities.

1.2 The following are the principal management responsibilities falling to BDC under the 1910 agreement:

*The Council may execute any works, drainage, raising, levelling or fencing or other works for the protection and improvement of the common, and shall preserve the turf shrubs, trees, plants and grass thereon.*

*The Council shall maintain the common free from encroachments, and shall not permit any trespass on or partial or other enclosure of any part thereof.*

*The Council shall have the power to repair and maintain the existing paths and roads on the common.*

1.3 Some of these responsibilities are positive i.e. 'shall preserve...' and 'shall maintain the common free of encroachments' and some are optional i.e. 'may execute works' and 'have the power to repair'.

1.4 Currently BDC is exercising its positive obligations by preserving the turf, shrubs, trees and grass via its environmental services contract with Serco and managing encroachment (via the Facilities Management team).

1.5 In September 2019 and February 2020 Executive Members considered BDC's current obligations and a commuted sum which could be proposed to DTC with a view to delegating BDC's responsibilities to the Town Council.

1.6 This is a unique situation i.e. BDC having liability on land that it doesn't own. The separation of duties i.e. one owner and a different manager wouldn't happen ordinarily.

## **2.0 Recommendation**

2.1 Agree and authorise Option 1 – Approve the release of £125k from the Inclusive Growth Reserve and for Breckland Council to delegate its current management responsibilities for Neatherd Moor to Dereham Town Council.

### **3.0 Options**

#### **3.1 Option 1:**

Approve the release of £125k from the Inclusive Growth Reserve and for Breckland Council to delegate its current management responsibilities for Neatherd Moor to Dereham Town Council. This is in accordance with the Member steer provided in September 2019 and February 2020.

#### **3.2 Option 2:**

Do not agree and authorise Option 1 and retain management responsibilities for Neatherd Moor. The situation 'as is' can continue i.e. Breckland Council to retain responsible for ongoing maintenance.

### **4.0 Reasons for recommendations**

#### **4.1** The reasons for the recommendation are:

- This enables one owner and manager of the Moor, reducing potential conflict over the maintenance and management of this community open space.
- Supports the Localism Act. DTC are well placed to understand the local community requirements for the use and enjoyment of this space.

### **5.0 EXPECTED BENEFITS**

4.1 Per 3.1.

### **6.0 IMPLICATIONS**

#### **6.1 Constitution & Legal**

6.1.1 The authority to release £125k for the disposal of this interest in this asset is a Full Council decision as per the Constitution, under Financial Procedure Rules (4B), Financial Management – general roles and responsibilities, Part 3 – Financial planning, paragraph 3.8 Full Council which states:

*Except where the s151 Officer certifies that there is no material impact on the Council's budget, to approve receipt of any grant funding in excess of £100,000 and any necessary budget amendment. An example of where funding will be considered to have no material impact on the budget would be a payment of a grant under s31 of the Local Government Act 2003 where the Council has no discretion to refuse the funding and any associated conditions.*

6.1.2 BDC has previously received Counsel's Opinion on its obligations in the 1910 Neatherd Moor management agreement. This resulted in advice that there is no mechanism for BDC to terminate the agreement of its own accord, however there was no reason why the management responsibilities could not be delegated back to another party, such as DTC on agreement between the parties.

#### **6.2 Contracts**

6.2.1 A legal document will be produced to formally capture this arrangement.

#### **6.3 Corporate Priorities**

6.3.1 Your Place

#### **6.4 Financial**

6.4.1 Proforma B attached.

## **6.5 Risk Management**

6.5.1 The largest risk is the Neatherd Moor continuing to be owned by DTC and managed by BDC causing potential conflict over the maintenance and management of this community open space.

## **6.6 Stakeholders / Consultation / Timescales**

6.6.1 The local ward representatives have been consulted.

6.6.2 In terms of timescales the parties would look to delegate these responsibilities by end of December 2021.

## **7.0 WARDS/COMMUNITIES AFFECTED**

7.1 Dereham – Neatherd.

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### **Lead Contact Officer**

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**Key Decision:** Yes / No

**Exempt Decision:** Yes / No

**This report refers to a Mandatory Service / Discretionary Service**

**Appendices attached to this report:**

Appendix 1 – Proforma B