

Report to:	Cabinet	Date of Meeting:	25 th May 2017
Subject:	Land at Formby	Wards Affected:	Harington, Ravenmeols
Report of:	Executive Director		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	Yes
Exempt/Confidential	No		

Purpose/Summary

To seek approval to transfer land at Formby to the National Trust.

Recommendation(s)

1. To note the outcome of the consultation on the proposed disposal of the land at Ravenmeols and Lifeboat Road, Formby.
2. Subject to paragraph 3 below that the Head of Corporate Support together with the Head of Regulation and Compliance be authorised to negotiate the terms of disposal and the Head of Regulation and Compliance be authorised to execute the necessary legal documentation to transfer the land to the National Trust, in consultation with the Cabinet Member.
3. To note that an independent valuation of the land is expected shortly and the outcome will be reported to the Cabinet Member – Regulatory, Compliance and Corporate Services who has authority to refer the matter back to Cabinet for further consideration should the valuation materially affect the transfer.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community	√		
2	Jobs and Prosperity	√		
3	Environmental Sustainability	√		
4	Health and Well-Being	√		
5	Children and Young People	√		
6	Creating Safe Communities		√	
7	Creating Inclusive Communities	√		
8	Improving the Quality of Council		√	

	Services and Strengthening Local Democracy			
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Reasons for the Recommendation:

The land at Formby is identified as one of number of coastal 'Destination Gateways' whose purpose is to strengthen the visitor economy by providing access to local communities and visitors, high quality amenities and preservation of the ecology of the natural environment in favourable condition. The Council has negotiated an opportunity with National Trust that would see a very significant financial investment in visitor infrastructure at Formby by National Trust that would create a direct benefit to the visitor economy and to make a tangible contribution to of the outcomes of Vision 2030.

The Cabinet Member for Locality Services has declared the land at Formby as surplus to operational requirements and the asset is included in the Asset Disposal Programme.

Alternative Options Considered and Rejected:

Alternative options include:

- Land remains in Council ownership – it is unlikely that that the Council would ever be able to match the scale of investment proposed by National Trust and in addition would also struggle to maintain and augment the current facilities at Formby Lifeboat Road and Ravenmeolls, whereas National Trust would develop sympathetically and appropriately.
- Council leases the land to National Trust – National Trust would not make this scale of investment unless the land was in the ownership of the Trust.
- Council and National Trust enter into a joint Special Purpose Vehicle – National Trust would not accept this proposal as experience of partnerships elsewhere has led to a number of compromises that have denuded the brand value of the Trust and created operational challenges.
- Disposal on the open market for best consideration – the land is graded as low grade agricultural land in the green belt. It was considered that no other party had the financial resource to make the same scale of investment, nor owned land adjacent to the land owned by the Council, to create a whole site of scale, that warranted investment in visitor amenities and could be promoted nationally. In addition no other organisation could declare the land inalienable, to the extent that in the Trust's ownership, it could not be sold and would be protected in perpetuity for generations to come. In addition, the core purpose of the Trust - access, conservation and community engagement aligns very strongly with the core purpose of the Council and Vision 2030 –By transferring the land from the Council there will be considerably greater opportunities for the future improvement and management of Formby Point by the National Trust.

What will it cost and how will it be financed?

(A) Revenue Costs

There are revenue implications to this disposal – the Council will lose variable annual income through car parking fees and one concession of an average of £68,000 per annum

(B) Capital Costs

There is no capital cost associated with this report.

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial Loss of variable annual income of an average of £68,000 pa. This loss of income will be contained within existing budgets
Legal The contract for disposal to National Trust will ensure through restriction to title, that if National Trust subsequently do not make the investment in visitor infrastructure (confirmed through National Board of the National Trust minute attached to the Agreement) within a period of 5 years, the Council has the right to purchase back the land on the same terms of the disposal. Independent legal advice confirms under the proposed terms of the Agreement, state aid will not apply, procurement is not required, nor is disposal for best consideration on the open market.
Human Resources The circumstances arising under this Agreement will not constitute a relevant transfer for the purposes of TUPE. The disposal of land has no associated business transfer and the Council warrants that it has no employees or contractors whose principal duties or services are discharged solely or mainly upon the Property. The requirement for resources from the Coast and Countryside team will reduce as a consequence of this transaction, savings already reflected in the MTFP.
Equality 1. No Equality Implication <input checked="" type="checkbox"/>
2. Equality Implications identified and mitigated <input type="checkbox"/>
3. Equality Implication identified and risk remains <input type="checkbox"/>

Impact of the Proposals on Service Delivery:

There will be no impact on service delivery, beyond a reduction in resources to manage this location.

What consultations have taken place on the proposals and when?

A notice of Intent to Dispose of an Open Space was posted on 8th March 2017 and on the same day, the Council commenced a joint communications programme with National Trust to inform the public of the possibility and desire to make this Agreement. A number of open sessions for the public were held in order to facilitate open question and answer discussion with both parties. The Council received an overwhelming response on favour of this proposal.

Implementation Date for the Decision

Following the expiry of the “call-in” period for the Minutes of the Cabinet Meeting.

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Background Papers:

Consultation Responses

1. Background

1.1 The coastal land at Lifeboat Road and Ravenmeols, Formby was acquired by the Council in 1995. The land is bordered by Wicks Lane to the north, Range Lane to the south, St Lukes Church Road to the east and mean high water to the west – it is made up predominately of open dune land, pinewoods and the shore to the mean high water mark. The area of land amounts to some 204 Hectares. The Council purchased the land because of its importance for nature conservation and open coastal access. It was purchased with financial support from Natural England, the then Countryside Commission and the European 'Life' Nature Fund. The process of freeing Sefton Councils title of any EC funding agreement title restriction has been completed and this has been confirmed by the Land Registry.

1.2 The land at Formby is part of the Sefton Coast Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar Site.

Alongside these designations, the recently adopted Local Plan for Sefton identifies a number of designations and associated policies across the coastal area, including Green Belt (MN7), Nature Sites of Local, National and International Importance (NH2), Coastal Change Management Area (NH4), Countryside Recreation Area (NH5), License Area for Onshore Hydrocarbon Extraction (NH8), Strategic Paths (EQ9) and a number of other site or development specific policies.

1.3 The recently adopted Local Plan for Sefton identifies a number of designations and associated policies across the coastal area, including Green Belt (MN7), Nature Sites of Local, National and International Importance (NH2), Coastal Change Management Area (NH4), Countryside Recreation Area (NH5), License Area for Onshore Hydrocarbon Extraction (NH8), Strategic Paths (EQ9) and a number of other site or development specific policies.

1.4 The land at Formby one of the main visitor destinations on the Sefton Coast and forms part of the coast known as Formby Point. The main landowners at Formby Point are Sefton Council and the National Trust.

1.5 Considerable investment is required to provide improved basic facilities at Formby. Formby Point is one of a number of 'Coastal Destination Gateways' along the coast including Crosby Coastal Park, Hall Road, Ainsdale on Sea, Southport and Marshside RSPB Nature Reserve.

1.6 The land in question does have a variable revenue income based on car parking fees and an Ice Cream Licence of approximately £68,000 and Cabinet is made aware that the Council will have to consider how it deals with this short-fall in income if it agrees to the transfer. However, this should be considered against the significant benefit for the Borough through the investment the National Trust is proposing.

1.7 Cabinet is aware of the problems relating to car parking and coastal erosion across the whole of Formby Point, including both the National Trust Property and Council owned land. The Local Plan and Sefton Coast Plan will support this cross-boundary approach to dealing with issues relating to erosion, site based issues, including improved car parking and improved visitor infrastructure.

- 1.8 The National Trust would, in all cases, demand and receive, an endowment for future management of the asset from the transferring organisation, but in this case the Trust has identified monies from within its own organisation, due to the very high conservation value of this location.
- 1.9 Sefton Council and National Trust have jointly participated in many workshops and meetings over the past year, to determine the commonality of organisational purpose and desired outcomes. This proposed acquisition reflects a common desire to unite land at Formby point as a visitor destination and secure the long-term protection of a site of very high conservation value. The transactional value will reflect an investment by the Council, that leverages many times, the value of that investment through this Agreement for the broader benefit of the community. In order to satisfy the community as to the merits of this Agreement, a number of additional outcomes will be included in the Agreement:
- A Conservation Management Plan
 - A Community Involvement Plan
 - A Learning Plan
 - A Marketing Plan

2. Sefton 2030 Vision and Core Purpose

- 2.1 Sefton Council led on the development of a new and exciting vision for the future of the Borough through 'Imagining Sefton 2030'.
- 2.2 The Council and partners engaged the public, local businesses and potential investors to develop a Vision Outcomes Framework which will guide long-term planning; helping to stimulate growth, prosperity, set new expectation levels and to help focus on what is important for Sefton.
- 2.3 It is recognised that Sefton Council will directly deliver fewer services, but will act as a broker and commissioner of services which meet the defined needs of communities, are person centred or localised where possible. The Council will deliver services which can't be duplicated elsewhere or where the Council can add value.
- 2.4 In considering the whole of the Borough and other considerable call on resources in respect of delivering the Council's 'Framework for Change' there is a need to consider opportunities to assist in regeneration through investment to improve the coastal offer and in particular the 'Coastal Gateways'; at the same time recognising that the Council won't necessarily be the organization who should manage these key sites in the long-term. In considering the long-term regeneration of Formby Point as a key 'Destination Gateway on the Coast'; including both the Council land at Lifeboat Road & Ravenmeols and the National Trust property at Freshfield, the Council entered into discussions with the National Trust.

3. Process

- 3.1 The Council's Asset Disposal Policy required a prior Cabinet Member decision, in this case, the Cabinet Member for Locality Services, to declare the asset (coastal land at Lifeboat Road Recreation Area and Ravenmeols, Formby) surplus to operational requirements. The Cabinet Member, in declaring the land surplus to operational requirements, agreed that the responsibility for the future of the land be transferred to the Cabinet Member for Regulatory, Compliance and Corporate Services and that the land to be managed under the Council's Asset Management Strategy.
- 3.2 The proposed transfer was reported to the Cabinet Member for Regulatory, Compliance and Corporate Services, who is responsible for the the Council's Asset Management Strategy agreed, to place the asset in the Asset Disposal Programme.
- 3.3 A public notice (Notice of considering disposal of area of open space in respect of Section 123 (2A) of the Local Government Act 1972 (As Amended)) relating to the proposed disposal of this open space to the north and south of Lifeboat Road, Formby, was published by the Council on the 8th and 15th of March 2017. The closing date for objections or representations to the proposal was 22 March 2017. Response to the public notice was high in this regard, with the Council receiving a petition with 69 in favour of the transfer and 7 written responses with 4 not in favour.
- 3.4 On 8th March 2017, as part of an agreed communications plan, the Council and the National Trust announced that positive conversations about the future care of coastal land on the coast at Formby relating to the transfer of land at Lifeboat Road and Ravenmeols from Sefton Council ownership to the National Trust were taking place.

These discussions identified that if the Council was to agree to the transfer, it would result in 204 hectares of coastal dunes and woodland and beach become part of the National Trust landholdings at Formby. As part of the informal consultation process and to raise awareness of the formal Public Notice process there were also numerous invitations for Ward Councillors to contact representatives from both the Council and National Trust, to be briefed on the proposal and a joint public drop-in day took place on the 18 March 2017.

- 3.5 The Trust will grant the Council a non-development transfer-back option (which cannot be exercised until effective after a period of 5 years), to be registered against National Trust's title and protected by a title restriction, simultaneously with its acquisition of the Property. When National Trust achieve Gate 2 of the Formby Point Project, the Council will release the option and the title restriction.
- 3.6 For the purposes of this agreement and for the avoidance of doubt the trigger for the council releasing the non-development transfer back title restriction is defined as: The National Trust has obtained Gate 2 approval for the Formby Point Project from its own Project Implementation Board (PiB), by undertaking the activities set out under 'Gate 2' in the Glossary.

Gate 2 Approval will be evidenced through the appropriate minute of National Trust PiB.

If the Trust obtains Gate 2 approval for the Formby Point Project within the 5 year period the Council will release the option and title restriction at that point.

If the Council needs to exercise the option, the land will be transferred back to the Council on the same basis on which the land was acquired by the Trust ie The Chorley Formula.

- 3.7 The Agreement will also include the investment that National Trust will make across the whole site (the sum of which is confirmed through the minute of the National Board of National Trust). Without this investment, the Council would not likely be considering the proposed transfer on these terms.
- 3.8 Upon release of the non-development transfer back title restriction, National Trust will review the merit and threat analysis with the intention of recommending to the National Trust Board of Trustees that the said property should be declared "inalienable" i.e. cannot be sold on at any point by the National Trust, thus protecting this site for generations to come.

Both parties acknowledge that the NT can give no formal undertaking in this regard as the decision to declare inalienable is irreversible and can only be made by NT Trustees based on the situation at the time.

3.9 Gate 2 is defined as:

- The Project team is in place
- Detailed project plans and specifications are in place
- Statutory Permissions have been sought and approvals obtained
- There is a procurement strategy in place
- External funding applications (if necessary) are underway
- There is a final estimate for the project in place (cost / time / scope)
- The Project Management Plan has been signed off by NT governance
- Project Implementation request has been approved
- NT funds have been released
- A Conservation Management Plan is in place
- A Community Involvement Plan is in place
- A Learning Plan is in place
- A Marketing Plan is in place

- 3.10 In developing these plans, NT would undertake extensive consultation with key stakeholders including the Council during their development of the proposals. In particular, the Trust will focus on both the character of the place that matters most to residents and visitors (i.e. what is distinctive that really matters to them) and the spirit of the place (i.e. how does it make them feel, or how do they want to feel when they engage with the whole site location at Formby).
- 3.11 This acquisition made by National Trust will be one of the largest acquisitions the Trust makes in 2017 and will be a flag-ship location, promoted nationally by the Trust, encouraging more visitors, from further afield to visit Sefton.
- 3.12 Investment in new visitor infrastructure at Formby will directly and indirectly create new jobs within the locality.
- 3.13 The Council will work with the Trust to ensure that the development provides sufficiency of car parking and adequate signage from both the highway and within Formby to the site itself, but also to Formby village to drive spend within the local economy.

4.0 Valuation

- 4.1 Cabinet should note that an independent valuation of the land is expected shortly and the outcome will be reported to the Cabinet Member – Regulatory, Compliance and Corporate Services who has authority to refer the matter back to Cabinet for further consideration should the valuation adversely affect the transfer.