

Meeting: Cabinet

Date: 18th February 2025

Wards affected: St Peters with St Marys

Report Title: Land Disposal at Penn Meadow, Brixham

When does the decision need to be implemented: Upon conclusion of the call-in process

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1. Purpose of Report

- 1.1 The Town Clerk of Brixham Town Council wrote to the Chief Executive of Torbay Council in March 2024 requesting the freehold transfer of a parcel of land located on the east side of Penn Meadows, Brixham from Torbay Council, shown in Plan EM4250.
- 1.2 The purpose of this report is to consider the request, the terms agreed for the proposed transfer and if in agreement consent to dispose of the land to Brixham Town Council.
- 1.3 The intended outcome for Brixham Town Council is to connect the land known as Wishings Field within their ownership, shown outlined blue on attached plan EM4270, located to the south west of the land at Penn Meadow. This will create a gateway from Penn Meadow and lead through to the natural open space within Wishings Field so that all the land ownership and control rests with Brixham Town Council.

2. Reason for Proposal and its benefits

- 2.1 The land which is subject to the request measures c.712sq m and consists mainly of sycamore trees and saplings which have self-seeded and matured over many years. The land historically was subject to fly-tipping and a general level of inattention.
- 2.2 In recent years, the local community and Brixham Town Council has endeavoured to tidy the site, trimming and cutting back overgrowth and have improved the land with the planting of daffodils and bluebells. With Brixham Town Council's support there has been a noticeable improvement in the reduction of fly-tipping.
- 2.3 The benefit of transferring this land to Brixham Town Council is twofold. Torbay Council will see the removal of any ongoing maintenance liability and reduce the necessity for staff and resources to be deployed in this remote part of Brixham. Transferring ownership will allow an opportunity to extend the accessible footpath to the entrance of Mudstone Lane, resulting in three accessible access points to Wishings Field. Wishings Field will

subsequently be extended allowing Brixham Town Council to formally work with South Devon National Landscape and the community to promote wildlife habitat, protecting the biodiversity of the area for future generations.

3. Recommendation(s) / Proposed Decision

- 3.1. That the Director of Finance be authorised to dispose of the freehold interest of land known as land at Penn Meadow, Brixham to Brixham Town Council for a nominal sum of £1 and subject to a restrictive covenant and clawback conditions in relation to the land continuing as public open space, with legal costs associated with the transfer being met by Brixham Town Council.

4. Appendices

- 4.1 Plan EM4250 – Land to be transferred Penn Meadow, Brixham.
Plan EM4270 – Land known as Wishings Field, Brixham

Supporting Information

1. Introduction

- 1.1 The Town Clerk of Brixham Town Council wrote to the Chief Executive of Torbay Council in March 2024 requesting the freehold transfer of a parcel of land (EM4250) located on the east side of Penn Meadows, Brixham from Torbay Council. Brixham Town Council purchased land known as Wishings Field in April 2023. The boundary of Wishings Field extends onto land owned by Torbay Council on the east side of Penn Meadow. There is no visual boundary separation on the ground.
- 1.2 Brixham Town Council have an aspiration to enhance Wishing Field and the land at Penn Meadow into an accessible wildlife habitat where the open green space can be used by the local community for quiet enjoyment and a place that welcomes wildlife. Brixham Town Council has engaged with South Devon National Landscape, on how they can work in partnership with their 'Life on the Edge' project. The first step in this project is to create an accessible footpath which runs from St Mary's Hill leading from Wishings Road, which forms part of the BX9 Public Right of Way. The project would be extended to Penn Meadows with the inclusion, for example of wildlife boxes.
- 1.3 Extending the accessible footpath from Mudstone Land will then provide three accessible access points to Wishings Field.
- 1.4 The land which is subject to the request measures c.712sq m and consists mainly of sycamore trees and saplings which have self-seeded and left to mature over many years. The ground space is covered with Alexander weed, which the Town Council routinely strim. Torbay Council's land ownership is minimal in this area of Brixham. Consequently, there has been little formal ground maintenance undertaken. Consequently, the land historically was subject to fly-tipping and a general level of inattention.
- 1.5 Upon transfer Brixham Town Council has stated it will manage the land at Penn Meadow in accordance with its Biodiversity Policy which states:
 - Use environmentally friendly practices that promotes biodiversity
 - Consider the conservation of land and management of open space through the adoption of beneficial practices regarding cutting and removal of vegetation, timing of maintenance work and removal of the use of pesticides.
 - Where feasible, involve the community in biodiversity projects on the land, for example tree planting, wildflower meadows and birdbox making.
- 1.6 The transfer of this land to Brixham Town Council will ensure the land remains as a public asset for the community to access.
- 1.7 Given the Council's minimal interest in the land and the existing use as public open space and amenity land, it is unlikely that an alternative higher value use is likely to come forward. Nevertheless, consent to transfer the land at a nominal sum of £1 will be on the understanding the existing use will continue. This will be covered by way of a restrictive

covenant being placed on the Land Registry Title. Should Brixham Town Council ever seek to dispose of the land for an alternative use Brixham Town Council would be obliged to seek a release of the covenant from the Council. To release the covenant, the Council would seek a premium to reflect the difference in value between the restricted use and the proposed use.

2. Options under consideration

- 2.1 There are no other options under consideration in this report.
- 2.2 The Council is under no obligation to consider the transfer and could simply reject the request. However, given the Council's limited involvement historically with the land and benefit that would be realised by transferring the land to Brixham Town Council it appears this would be a missed opportunity should the Council reject the proposal.

3. Financial Opportunities and Implications

- 3.1 The current book value of this land is de minimis and is considered public open space and amenity land. Transferring the land for a nominal £1 would be on the understanding the existing use would continue and would be ensured indefinitely by placing a restrictive covenant on the Land Registry Title on the land.
- 3.2 Should Brixham Town Council ever seek to dispose of the land for an alternative use they would be obliged to seek a release of the covenant from the Council. To release the covenant, the Council would seek a payment premium to reflect the difference in value between the restricted use and the proposed use.
- 3.3 At present, the Council's maintenance cost for the land is minimal. However, should a significant fly tip event occur or concern is raised about the condition of the trees for example, then the Council would be obliged to remedy the situation. A transfer of the land would remove this liability.

4. Legal Implications

- 4.1 A legal transfer document will be required, containing the relevant covenants and clawback conditions that will need to be observed. The legal costs associated with the transfer will need to be met by Brixham Town Council.

5. Engagement and Consultation

- 5.1 No formal consultation is required.

6. Procurement Implications

- 6.1 Not applicable.

7. Protecting our naturally inspiring Bay and tackling Climate Change

- 7.1 Transferring the land to Brixham Town Council will ensure the land is actively managed now and in the future. Brixham Town Council will adopt the use of their Biodiversity Policy on the land that will promote wildlife conservation and habitat and ensure any work undertaken will not harm the natural environment.

8. Associated Risks

- 8.1 The risk associated with the proposal not being implemented would inevitably see the withdrawal of community engagement and interest in the land. The Council would therefore be expected to manage the land in a more active way and at a greater cost, hitherto experienced in recent years. With a local disengagement this may result in anti-social behaviour and increase in fly-tipping.

Equality Impacts

9. Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Improve community engagement with opportunities for the wider community of all ages.		
People with caring Responsibilities			No differential impact specific to this group
People with a disability			No differential impact specific to this group
Women or men			No differential impact specific to this group
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			No differential impact specific to this group

Religion or belief (including lack of belief)			No differential impact specific to this group
People who are lesbian, gay or bisexual			No differential impact specific to this group
People who are transgendered			No differential impact specific to this group
People who are in a marriage or civil partnership			No differential impact specific to this group
Women who are pregnant / on maternity leave			No differential impact specific to this group
Socio-economic impacts (Including impact on child poverty issues and deprivation)	Improve community engagement with volunteering opportunities for the wider community of all ages.		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Opportunities for physical activity and enjoyment of the natural environment.		

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None