

Agenda Item No: 12

Report To: Cabinet

Date: 13th July 2017

Report Title: **Ashford Town Bowls Club relocation and enhancement of Memorial Gardens**

Portfolio Holder Cllr Mike Bennett, Portfolio Holder for Culture, Leisure, Environment, and Heritage.

Report Author: Ben Moyle, Facilities Development Manager



Summary: This report seeks Cabinet approval for the release of Section 106 contributions from the Newtown Works Development to be used for the relocation of Ashford Town Bowls Club to Kingsnorth Entrance Park and for the existing bowls club site on the corner of Vicarage Lane and Church Road to be used to enlarge and enhance Memorial Gardens.

Key Decision: Yes

Affected Wards: Park Farm North and Victoria

Recommendations: **Cabinet is being asked to:**

- i. **Approve the release of Newtown Section 106 contributions of £509,000 for the relocation of Ashford Town Bowls Club and the transfer of the existing Bowls Club site to the Council for the enlargement and enhancement of Memorial Gardens;**
- ii. **Give authority to the Director (Legal and Governance) and appropriate Service Heads to secure the land at Vicarage Lane/Church Road in return for granting a long term lease to Ashford Town Bowls Club of Council owned land at the Entrance Park in Kingsnorth;**
- iii. **Receive a masterplan for further improvements to the Memorial Gardens, incorporating the new site, in consultation with the Design and Development of Parks and Open Spaces Task Group at a later meeting.**

Policy Overview: Relevant to the 5 year Business Plan and Corporate Plan because this project will make a significant and positive contribution to improving sports and recreation facilities in the Kingsnorth area and for the benefit of the wider borough and improve green public open space in the Town Centre.

Financial Implications:

S106 funding from deferred contributions received from the Newtown Works of £359k is proposed to contribute to the new Outdoor Bowls Club facilities at Kingsnorth Entrance Park and £150k for open space improvements creating an extension to the Memorial Gardens.

Additional funding will be sought in partnership with the Bowls Club to further develop the new build proposals.

A masterplan for enhancement of Memorial Gardens will be produced and may identify further investment opportunities to enhance the new space and existing areas.

Risk Assessment YES

Equalities Impact Assessment YES (attached)

Other Material Implications: NO

Exemption Clause: NO

Background Papers:

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Introduction and Background

1. Ashford Town Bowls Club (the Bowls Club), located on the corner of Vicarage Lane and Church Road, (refer Appendix A) is over 100 years old and its indoor and outdoor facilities are no longer fit for purpose. It has 70 members currently but it is anticipated that the provision of new facilities elsewhere will see a significant uplift in participation.
2. The Bowls Club are freeholders of the site of 0.28ha and have offered it to the Council in exchange for the Council enabling a new green and pavilion on an alternative site.
3. Adopting the existing Bowls Club site, whilst not of commercial or financial value, is of great worth to the Council as its incorporation into the Memorial Gardens will increase and enhance this well used green open space. A masterplan including the new space will look to address a number of issues e.g. sight lines to the War Memorial, the track that currently splits the site and how a 'green pathway' could be created from the station via the commercial quarter to support connectivity to the town centre. This will be presented to the Council at a future meeting.
4. The first phase of the Memorial Gardens' enhancement will be to make good and allow public access to the vacated open space. Further phases of work will look to enhance the space and gardens further and address the key issues identified as part of an agreed masterplan.
5. A new location for the Bowls Club has been identified at the Council owned area of land adjacent to Kingsnorth Recreation Ground known as the Entrance Park, a 0.85ha site (see Appendix B). The Bowls Club wish to build new facilities comprising a green, boundary fencing and pavilion. This is supported by Kingsnorth Parish Council and Kingsnorth Recreation Centre Trust who view the club as a key partner around which a range of community activities can be developed.
6. The S106 Working Group consider the expenditure of the S106 Newtown Works deferred contributions in line with the provisions of the S106 agreement. A previous Cabinet report breaks down the Newtown Works S106 deferred contributions and asks for approval to allocate monies.
7. This report seeks Member's approval to proceed with the relocation and undertake the legal and project management work required to secure the sites and provide new facilities for the Bowls Club and extend/improve the Memorial Gardens.

Heads of Terms

8. Members are asked to agree the transfer of the current Bowls Club land in return for granting a lease to the Bowls Club for the new location.
9. A contract will determine the transfer arrangements in relation to the land transfer and new site for the club's facilities. Appendix C outlines the agreements and the Bowls Club's requirement for a 125 year lease period at peppercorn rent.
10. The contract includes the requirement for the Bowls Club to use the allocated S106 monies only on the provision of the green, boundaries and pavilion. These works will be completed within an agreed timescale.
11. Inherent within the agreement will be the expectation that the club is fully accessible by the public to include non-members who will be able to access the facilities at prescribed times for the purposes of 'turn-up-and-play'. This will have the dual benefit of attracting new full members to the Bowls Club.
12. If Members agree to move forward with the project, planning permission will be progressed as swiftly as possible.

Implications and Risk Assessment

13. The Section 106 deferred contribution may not cover the full cost of the project. A funding strategy to include the possibility of funding from Sport England and a loan from Bowls England (National Governing Body) will seek to cover identified overspend. The Bowls Club are actively fund raising and aim to help to manage the project ensuring that the facilities proposed are both appropriate and are within the available budget.
14. Improvements to the land vacated by the Bowls Club will require new pathways, grassed areas and fences. This will allow an extension to the existing Memorial Gardens and public access. Further work as part of the masterplan will be identified and presented to the Council for further consideration.

Equalities Impact Assessment

15. Enclosed. There are no significant implications.

Other Options Considered

16. This is considered the best use of the S106 Newtown Works available deferred monies. Kingsnorth Parish Council has been leading a master planning exercise of local community and leisure facilities and spaces and supports the application. The scheme is supported by the Council due to the worth of the acquisition of the existing Bowls Club site to the town centre environment.

Consultation

17. Key officers from Cultural Services have consulted with the Bowls Club, Bowls England, Kingsnorth Parish Council and Kingsnorth Recreation Centre Trust.

Next Steps in Process

18. Officers in partnership with the Bowls Club, Kingsnorth Parish Council and Kingsnorth Recreation Centre Trust will oversee the delivery of the project including project management, application for planning permission and completion of the improvement works in addition to completion of the legal agreements, which would permit the release of funds.
19. Further master planning of the Memorial Gardens will include various departments on the Council and is seen as an important part of an emerging Town Centre Strategy.

Conclusion

20. The relocation of the Bowls Club secures the future of the club over the next 125 years. The project will enable the Bowls Club to act as an anchor club at a critical sporting hub (as identified by the 2017 draft Playing Pitch and Indoor Facilities Strategies for Ashford Borough) given housing growth in the immediate area in coming years.
21. Releasing the Bowls Club's town centre site allows enlargement and enhancement of the Memorial Gardens that will provide greater central public open space. Members are asked to approve the S106 funds to support the delivery of this important project.

Portfolio Holder's Views

Cllr Mike Bennett comments as follows:

"This project provides the dual benefit of securing the future of one of Ashford's historic sports clubs while enabling green space in the town centre to be greatly improved for the benefit of the whole community".

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Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - Encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Ben Moyle
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Release Section 106 contributions for the Relocation of Ashford Town Bowls Club.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	13 th July 2017
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	To approve the release of Section 106 contributions for the relocation of Ashford Town Bowls Club and the transfer of the existing Bowls Club site to the Council for the enlargement and enhancement of the Memorial Gardens; People from all sections of the community will benefit from the enhancement. Over 70 people are current members of the Bowls Club. The improvements will help lift participation.
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	The draft plans have been drawn up by an architect on the instruction of the Council and the Bowls Club in consultation with Kingsnorth Parish Council and have been duly approved by all bodies.
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	Key officers from Cultural Services have consulted with the Bowls Club, Bowls England, the Kingsnorth Parish Council and Recreation Centre Trust and will continue to consult with the partners, the portfolio holder and the ward member as the project progresses. The consultation has resulted in the belief that this is the best use of the contributions. The decision will have no impact on people with different protected characteristics.

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	MEDIUM	POSITIVE
Middle age	MEDIUM	POSITIVE
Young adult	MEDIUM	POSITIVE
Children	MEDIUM	POSITIVE
<u>DISABILITY</u> Physical	MEDIUM	POSITIVE
Mental	MEDIUM	POSITIVE
Sensory	LOW	NEUTRAL
<u>GENDER RE-ASSIGNMENT</u>	NONE	NEUTRAL
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	NONE	NEUTRAL
<u>PREGNANCY/MATERNITY</u>	NONE	NEUTRAL
<u>RACE</u>	NONE	NEUTRAL
<u>RELIGION OR BELIEF</u>	NONE	NEUTRAL
<u>SEX</u> Men	NONE	NEUTRAL
Women	NONE	NEUTRAL
<u>SEXUAL ORIENTATION</u>	NONE	NEUTRAL

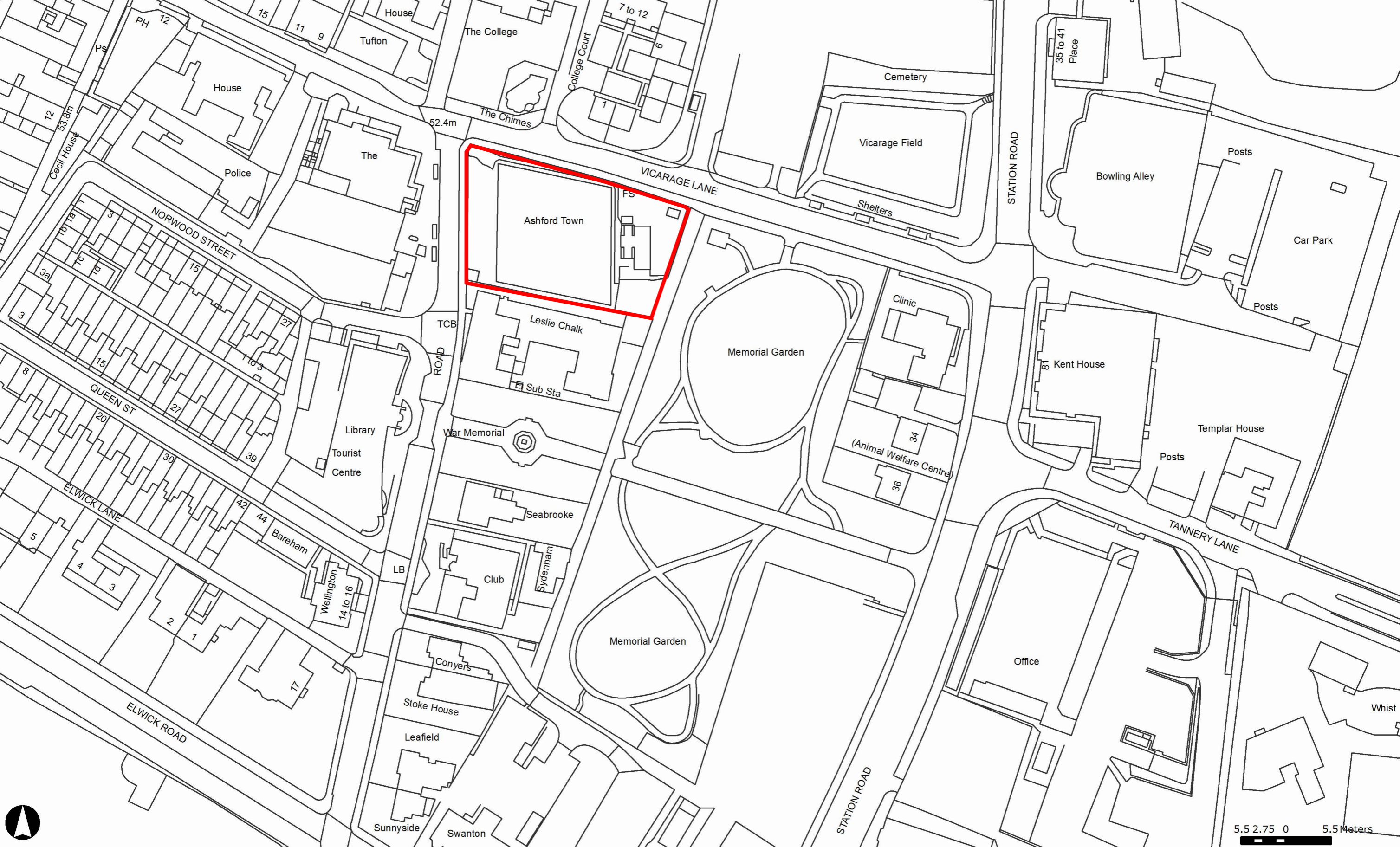
Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
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Is the decision relevant to the aims of the equality duty?

Guidance on the aims can be found in the EHRC’s [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	YES
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	YES
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	YES

<p>Conclusion:</p> <ul style="list-style-type: none"> • Consider how due regard has been had to the equality duty, from start to finish. • There should be no unlawful discrimination arising from the decision (see guidance above). • Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. • How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>Due regard has been made to the equality duty, from start to finish of the consultation and scoping process.</p> <p>There will be no unlawful discrimination arising from the decision</p> <p>The proposal meets the aims of the equality duty as all sections of the community including those with protected characteristics will benefit from the enhancements to the centre.</p> <p>Monitoring of the policy, procedure or decision and its implementation be undertaken and reported will be undertaken by the partners.</p> <p><i>The council’s revised policy register will assist services to meet this</i></p>
<p>EIA completion date:</p>	<p>11-6-17</p>



Ashford Town

VICARAGE LANE

NORWOOD STREET

QUEEN ST

ELWICK LANE

ELWICK ROAD

STATION ROAD

TANNERY LANE

Memorial Garden

Memorial Garden

Leslie Chalk

Sub Sta

War Memorial

Seabrooke

Club

Sydenham

Office

Templar House

81 Kent House

Library
Tourist Centre

Wellington
14 to 16

Bareham

Conyers

Stoke House

Leafield

Sunnyside

Swanton

Clinic

(Animal Welfare Centre)

34

36

Posts

Car Park

Posts

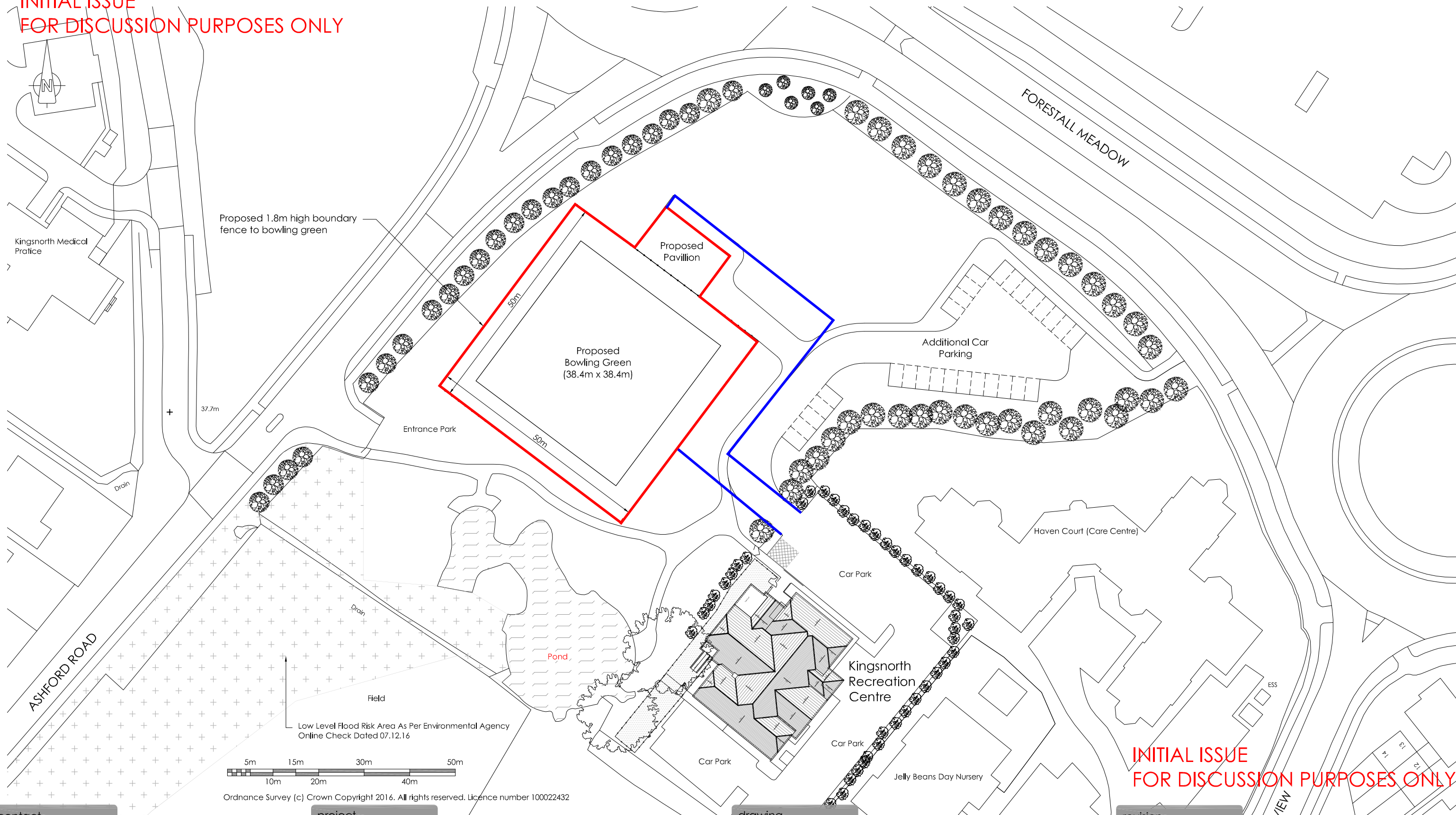
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**INITIAL ISSUE
FOR DISCUSSION PURPOSES ONLY**



contact

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project

client
Kingsnorth Parish Council
project title
Park Farm Entrance Park
Ashford Road Kingsnorth
Ashford Kent TN23 3NZ

drawing

drawing title
Entrance Park Scoping Plan
Proposed Site Plan

scale (A3) date drawn checked
1:500 Dec 16 DD

revision

drawing no

438 sk02

revision

**DRAFT HEADS OF TERMS OUTDOOR BOWLS PROJECT
SUBJECT TO CONTRACT**

The transaction will consist of three documents:

1. A contract;
2. A transfer of the existing bowls club land;
3. A lease of the new bowls club land.

The contract will contain the following provisions:

- Agreement from the Bowls Club that it will transfer the existing bowls club to the Council on [Date];
- Agreement from the Council that it will grant the Bowls Club the lease of the new bowls club land on [Date];
- Agreement from the Council that it will provide the Bowls Club with £350,000 to be spent solely on the creation of the new bowling green and the provision of a pavilion at the new location;
- Agreement from the Bowls Club as to how the funds will be allocated and how the contractors will be chosen.

The transfer of the existing bowling green land will contain the following provisions:

Transferor	Ashford Town Bowls Club (or legal entity as confirmed)
Transferee	Ashford Borough Council
Price	£1.00
Property	The land shown on the attached plan, being partly registered under title number TT62580. We will require a Statutory Declaration to be made by a long standing member of the Bowls Club in respect of the unregistered section.
Covenants	To be determined once the title to the land has been investigated.

The lease of the new bowling green land will contain the following provisions:

Landlord	Ashford Borough Council
Tenant	Ashford Town Bowls Club (or legal entity as conformed)
Property	Land at Entrance Park, Kingsnorth, as shown edged red on the attached plan.
Term	125 years
Landlord & Tenant	The Lease will be excluded from the security of tenure

Act 1954	provisions of Part II of the Landlord and Tenant Act 1954.
Break Clause	None
Rent	A peppercorn
Rent Review	None
Service Charges	The Tenant will pay a fair and reasonable proportion of the Landlord's costs of maintaining the accessways and footpaths and any car parking areas that maybe created on the adjoining land that the Tenant will have access to and use of.
Rates & Utilities	The Tenant will be responsible for all rates and utilities.
Insurance	The Tenant will insure the Building.
Use	The property is for use as a bowls club and associated leisure and sports activity only.
Assignments & Underlettings	The tenant cannot underlet or assign the whole or any part of the property.
Repair	The lease will be a full repairing lease and the tenant will be responsible for all internal and external repairs.
Alterations & Additions	The tenant cannot make any structural or external alterations or additions to the property. It is anticipated that the Tenant will procure the construction of a pavilion within two years of the grant of the Lease. This will need the approval of the Landlord and a separate Licence for Works will be agreed and entered into in respect of this.
Costs	Each party is responsible for its own legal costs in connection with this transaction.
Landlord's Solicitor	Legal Services, Ashford Borough Council, Civic Centre, Tannery Lane, Ashford, Kent TN23 1PL (Ref: Sarah Hartles)
Tenant's Solicitor	