



<p>(c) <u>Compulsory Purchase Order of Land at Lode Road, Bottisham</u></p> <p>The Committee considered a report seeking approval for the Council to exercise its compulsory purchase order (“CPO”) powers on behalf of Bottisham Parish Council (“the Parish Council”) to acquire land to construct a new cemetery at Lode Road, Bottisham.</p> <p><i>(due to the re-scheduling of the Finance &amp; Assets Committee meeting to 4 October 2022 as a result of the death of HM The Queen, the full minute of this item will be circulated after the despatch of the Council Agenda.)</i></p> <p><b>It was resolved TO RECOMMEND TO COUNCIL (unanimously):</b></p> <ol style="list-style-type: none"> <li><b>1. That Council authorise the use of the District Council’s compulsory purchase making powers pursuant to section 125 Local Government Act 1972 to acquire land on behalf of the Parish Council to allow for a new cemetery to be constructed.</b></li> <li><b>2. To delegate authority to the Director Legal to:</b> <ol style="list-style-type: none"> <li><b>(a) take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all relevant notices and to support the presentation of the Parish Council’s case at any local public inquiry;</b></li> <li><b>(b) serve a requisition for information (in accordance with section 16 Local Government Act 1972) on the reputed owner and other parties that may have an interest in the land as part of the preparatory steps associated with the making and promotion of a CPO;</b></li> <li><b>(c) approve terms for the acquisition of legal interests by agreement, either on behalf of the Council or in conjunction with the Parish Council, including for the purposes of resolving any objections to the CPO;</b></li> <li><b>(d) take all necessary steps to resolve any compulsory purchase compensation claims, including, if necessary, by making (or responding to) a reference to the Upper Tribunals (Lands Chamber);</b></li> <li><b>(e) enter into a suitable agreement with the Parish Council regarding reimbursement of all costs</b></li> </ol> </li> </ol>	<p><b>X68 (attached at Appendix C)</b></p>
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**incurred by the District Council regardless of whether or not the CPO proceeds to completion;**

- (f) transfer the relevant land to the Parish Council if the CPO proceeds to completion via a back-back sale, subject to reimbursement of purchase costs and all other relevant expenses and the inclusion of a restrictive covenant in the transfer to prohibit development or uses other than as a burial ground.**

**LOCAL COUNCIL TAX REDUCTION SCHEME REVIEW 2023/24**

Committee: Finance and Assets Committee

Date: 4 October 2022

Author: Director, Finance

[X65]

1. ISSUE

1.1 Each year the Council is required to review its Local Council Tax Support Reduction Scheme (LCTRS). This report details the annual review of the scheme in 2022 and recommendations for suggested scheme for 2023/24.

2. RECOMMENDATION

2.1 Committee is asked to recommend to Full Council that the Council retain the 8.5% reduction scheme, i.e. the maximum reduction for a working age claimant remains at 91.5% for the 2023/24 financial year.

3. BACKGROUND

3.1 Councils are required to review their LCTRS schemes annually and consider whether any changes need to be made. Where it is determined to retain the existing scheme, this must be decided by 11<sup>th</sup> March of the preceding financial year.

3.2 Where councils decide that they wish to amend their schemes they need to consult preceptors and stakeholders prior to a wider consultation to inform a final scheme design by 28<sup>th</sup> February of the preceding financial year.

3.3 We are now in the tenth year of LCTRS; a locally set scheme that replaced the previous nationally set Council Tax Benefit (CTB) scheme from April 2013.

3.4 In 2013/14 the Council took advantage of a one-off Government grant that compensated in part for the reduction in Government funding for the Working Age scheme that year. This meant that the maximum LCTRS awarded was 91.5%.

3.5 For 2014/2015 to 2017/18 the Council retained the original scheme, except that allowances and premiums (the amounts of income from state-administered benefits such as Jobseekers' Allowance) were increased in line with other benefits such as Housing Benefit.

3.6 For 2018/19 the Council approved and introduced a proposal to harmonise the scheme with the Department for Works and Pensions (DWP) welfare reforms introduced for Housing Benefit and LCTRS for Pensioners and introduced closer

links to Universal Credit (UC) data share for claims, thereby removing the requirement to make a separate claim.

- 3.7 For 2019/20 the Council kept the same scheme as for 2018/19.
- 3.8 For 2020/21 the Council introduced a fluctuating earnings rule to the treatment of Universal Credit. A weekly tolerance level of £15 (£65 a month) was introduced to reduce the number of monthly reassessments impacting customers every time a revised Universal Credit notification is received.
- 3.9 For 2021/22 there were no changes implemented and the 2020/21 scheme was retained.
- 3.10 For 2022/23 there were four amendments made to the scheme. Reducing the capital threshold from £16,000 to £10,000 and abolishing tariff income for those with under £10,000 of savings. Applying a fixed rate non-dependent deduction of £7.40 per week. Streamlining the Council Tax Support application process by signposting customers to claim Universal Credit and Council Tax Support at the same time. Increasing the Universal Credit income variation rule from £65 to £100 each month.
- 3.11 The current East Cambridgeshire Working Age LCTRS scheme therefore provides a maximum benefit of 91.5% for working age claimants and the scheme also fully protects War Pensioners. The aim in designing the scheme was to achieve a balance in charging an amount of Council Tax to encourage customers back into work whilst setting the amount charged at an affordable and recoverable level during the year.
- 3.12 A statutory scheme applies to Pensioners who can receive up to a maximum 100% reduction of their Council Tax bill.

#### 4. ARGUMENTS / CONCLUSIONS

- 4.1 The Council could determine to retain the 2023-24 scheme in its current form. However, we have outlined two other options below relating to decreasing and increasing the minimum contribution rate.
- 4.2 Options to change the contribution level
  - **Option 1.** Do nothing and retain the current scheme with an 8.5% minimum contribution.
  - **Option 2.** Decrease the contribution rate to zero to support low-income households during the cost-of-living crisis.
  - **Option 3.** Increase the contribution rate to above 8.5% to generate additional receipts for the Council.
- 4.3 With the current “cost of living crisis”, it is felt to be the wrong time to burden the residents of East Cambridgeshire, who are already in receipt of LCTRS, with additional costs, so option 3 is rejected.

4.4 The Council does however continue to believe that the principle of everyone making at least a small contribution towards their Council Tax is the right one and as such option 2 is also rejected.

4.5 Option 1 is therefore recommended as:

- All other things being equal, this will maintain the level of Council Tax income collected to continue to provide funding for services at district and county level.
- There is other support available for those on low incomes and impacted by the “cost of living crisis” within the Housing Team and those affected should also be signposted to maximise benefit take-up, reviewing discounts and exemptions and providing Exceptional Hardship Payments where there is a need.

4.6 A number of technical changes were made to the Scheme and implemented for 2022/23, as detailed in 3.10 above. No further technical changes are recommended for 2023/24.

## 5. RECOMMENDATION

5.1 The recommendation is to go with option 1 and retain the current scheme with the 8.5% minimum contribution level.

5.2 If this recommendation is accepted no consultation exercise will need to take place in the Autumn.

## 6. FINANCIAL IMPLICATIONS / EQUALITY / CARBON IMPACT ASSESSMENT

6.1 The recommendation in this paper, to leave the scheme unchanged, will not have an impact on the Council Tax collected by the Council.

6.2 The existing LCTRS scheme continues the DWP’s previous Council Tax Benefit scheme conventions established over many years, regarding protections for vulnerable groups, including children, the disabled and the Armed Forces.

6.3 Equality Impact Assessment (INRA) is not required.

6.4 Carbon Impact Assessment (CIA) is not required.

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<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
	Room 104 The Grange Ely	Lorraine King, Head of Benefits, Council Tax Billing and Systems, ARP Tel: 07931862997 Email: <a href="mailto:Lorraine.king@angliarevenues.gov.uk">Lorraine.king@angliarevenues.gov.uk</a> Ian Smith Director, Finance Telephone: (01353) 616470 E-mail: <a href="mailto:ian.smith@eastcambs.gov.uk">ian.smith@eastcambs.gov.uk</a>

**MEDIUM TERM FINANCIAL STRATEGY UPDATE**

Committee: Finance & Assets Committee

Date: 4 October 2022

Author: Director, Finance

[X66]

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1 **ISSUE**

- 1.1 To provide Committee with an up-date on the Medium Term Financial Strategy (MTFS) since the 2022/23 budget was approved in February 2022.

2 **RECOMMENDATIONS**

- 2.1 Members are requested to note the contents of this report.
- 2.2 Members are requested to recommend to Full Council the increased premiums chargeable on long term empty properties as detailed in Paragraph 5.4.

3 **BACKGROUND**

- 3.1 The Council approved the budget for 2022/23 and with it the MTFS for 2023/24 to 2025/26 at its meeting on the 22<sup>nd</sup> February 2022. At that point, via the use of its Surplus Savings Reserve, the Council had a balanced budget for 2022/23 and 2023/24, but with then significant savings to be found in the following years.
- 3.2 The Budget / MTSF was approved on the basis that the Council would not put up Council Tax in the budget year, but then put it up by the maximum allowed, £5 per year, each subsequent year. This paper is drafted on the same assumption, no Council Tax increase in the budget year (2023/24), but with then a £5 increase in each future year.

4 **CHANGES TO THE PLAN SINCE FEBRUARY 2022**

- 4.1 The Council ended the 2021/22 financial year with an underspend of £2,367,039 this has been added to the Surplus Savings Reserve and is available to support the MTFS in future years.
- 4.2 The Council is also forecasting an overspend of £106,400 in 2022/23, this will be an additional draw on the Surplus Savings Reserve in year, and has again been included in these MTFS papers.

5 **ASSUMPTIONS MADE**

- 5.1 Fair Funding Review

Members will be aware that the Fair Funding Review has been promised, but not delivered by Government for a number of years (originally planned for 2020). In simplistic terms, the Fair Funding Review is Government calculating how much of its

overall funding of Local Government goes to each individual Council. As a full Baseline reset is expected at this time, this Council would lose the benefit it is currently receiving from the high level of Business Rate growth in the District since 2013. The delay has therefore been good news for us.

No decision has yet been announced regarding if the Fair Funding Review will take place this year and the Government's official position remains that it will take place from April 2023. That said, with the current issues facing Central Government, regarding the new leader determining their route forward and the general cost of living crisis and a lack of any consultation documents regarding the Review, the strong opinion of most commentators, including our own advisers, Pixel Financial Management, is that the Review will not be implemented until April 2025 after the next General Election.

In preparing this report, I have assumed that the Review will not be implemented until April 2025, and it therefore shows a far more favourable position than previous reports as we gain from the Business Rate growth in 2023/24 and 2024/25.

Clearly if the Review does go ahead in April 2023, there will be a considerable downside to the Council, compared to the figures in this report, but this report does present what is strongly believed to be the most likely scenario. I will of course be monitoring the situation throughout the autumn period and will up-date Committee immediately if this assumption proves wrong, before presenting the draft budget report to Committee in January, at which point we will have full details of all Government Funding.

## 5.2 Inflation

The Council has benefited in previous years from low inflation levels that have allowed us to leave many budgets at the same cash value as previous years. While this will still remain the case on some budgets, far more will need to have an inflationary element added to them to ensure that service levels can be maintained in the coming years.

I have made some assumptions regarding inflation levels in this report, but over the coming months, the amount of inflation needed to be added to individual budget lines will be reviewed as additional information becomes available, especially, as an example if the April 2022 pay claim is settled. My final budget report will further contain some sensitivity analysis about the impact of inflation at various levels moving forward.

Taking pay as an example, I have included an 8% increase between the 2022/23 and 2023/24 budget. This is only an estimate, but represents the cost of a 6% rise from April 2022 (we already have 2% in) and a further 4% rise from April 2023.

## 5.3 Council Tax

The Council and all the other preceptors determine, as part of their budget preparations, how much they wish to collect in Council Tax and set their tax level in February, prior to the year of collection, at a value to ensure that the required amount is collected. In year, this Council (as the collection authority) will pay across to the



other preceptors and indeed ourselves, the budgeted value from the Council Tax Collection Fund.

The amount of Council Tax collected is usually determined by two factors, the Council Tax value for a band D property as determined by the Council and the number of band D equivalent properties in the District. But perhaps a third factor this year, will be the number of accounts getting into arrears because of the cost of living crisis.

It is assumed at this stage that the value of Council Tax in 2023/24 for a band D property will remain at £142.14.

An initial calculation of the number of equivalent Band D properties in the District will be undertaken shortly, but I have made allowance in the figures in this report for the potential of more rate payers getting into arrears, as compared to the number in the budget report approved in February 2022. Again, this figure will be reviewed and updated over the Autumn period.

#### 5.4 Council Tax – Long Term Empty Property Premium

Since April 2013 Councils have had the discretion to charge up to 50% empty homes premium for properties that have been empty for over two years. In offering these powers, Government was seeking to influence owners to bring empty homes back into use. This Council has previously agreed to charge this 50% premium on these properties, resulting in the total bill being 150% of the “normal value”.

More recently Government has announced further flexibilities in relation to charging additional Council Tax premiums on Long Term Empty properties. Legislation now allows Councils to charge an additional 50% on empty properties over two years old, bringing the premium to 100% and the total Council Tax bill to 200%. With, in addition, a further 100% increase on properties empty for over five years, bringing the premium to 200% and the total Council Tax bill to 300%. And then further still, a further 100% increase after 10 years, bringing the premium to 300% and the total Council Tax bill to 400%.

Initial estimates suggest that there are 143 properties in East Cambridgeshire that would be required to pay these additional premiums benefiting this Council by around £19,000 with our other preceptors benefiting more or less depending on the size of their precept.

While clearly, there is a financial benefit here, the main reason for the change is the hope that the additional premium will encourage homeowners to bring these properties back into use and Committee is therefore asked to recommend to Full Council that these additional premiums are applied to bills with effect from 1<sup>st</sup> April 2023.

#### 5.5 Business Rates

Councils are required to prepare a report to Government (called the NNDR1) by the end of January each year, detailing the amount of Business Rates they anticipate collecting during the following financial year. The final budget presented to Council in February will reflect the figures detailed in this return, but for now, the figures in this report match those forecast by Pixel Financial Management and assume the

continuation of the benefit we are gaining from Business Rate growth in the District as discussed in 5.1 above.

## 6 IMPACT ON THE MTFs

- 6.1 As eluded to above, it is very difficult at this time to forecast the longer term implications on the Council's finances, with the major unknowns being around the timing of the Fair Funding Review for local government, inflation and Council Tax receipts.
- 6.2 The figures detailed in appendix 1, therefore need to be treated with great caution, these will be up-dated further during the coming months as further information becomes available, with the Director, Finance up-dating Finance and Assets Committee as appropriate.
- 6.3 The figures presented however show that the 2023/24 financial year remains balanced via the use of the Surplus Savings Reserve, and we are now also showing 2024/25 as balanced. This is mainly as the result of the change of assumption around the timing of the Fair Funding Review.
- 6.4 While therefore the Council is not expecting any issues with being able to publish a legal budget for 2023/24, savings are still required in year three of the MTFs period (2025/26), after the implementation of the Fair Funding Review. It is important therefore that work must continue to look for opportunities and put in place plans to make savings or increasing income levels in 2023/24 and future years, to reduce the immediate draw from the Surplus Savings Reserve, so that further funds are available in the future.
- 6.5 To this end, options to resolve the budget shortfalls in future years come from:
- Efficiencies in the cost of service delivery
  - Reductions in service levels
  - Increased income from fees and charges
  - Increased commercialisation via its trading companies

## 7 APPENDIX

### 7.1 Appendix 1 – MTFs Model as at 1<sup>st</sup> September 2022

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<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
2022/23 Budget as approved by Full Council on the 22 <sup>nd</sup> February 2022, Agenda item 11	Room 104 The Grange Ely	Ian Smith Director, Finance Telephone: (01353) 616470 E-mail: <a href="mailto:ian.smith@eastcambbs.gov.uk">ian.smith@eastcambbs.gov.uk</a>

**DRAFT BUDGET 2023-24**

	Budget 2022-23 £	Estimate 2023-24 £	Estimate 2024-25 £	Estimate 2025-26 £	Estimate 2026-27 £
Committees:					
Operational Services	5,802,153	<b>6,302,526</b>	6,847,149	6,963,096	7,074,424
Finance & Assets	5,607,728	<b>5,949,926</b>	6,181,810	6,593,252	6,793,012
Net District Spending	11,409,881	<b>12,252,452</b>	13,028,959	13,556,348	13,867,436
New Homes Bonus Grant	-1,112,624	<b>-600,000</b>	-600,000	0	0
Rural / Lower Tier Services Grant	-452,410	<b>-452,410</b>	-452,410	-169,586	-169,586
Covid-19 Grant	0	<b>0</b>	0	0	0
Internal Drainage Board Levies	571,955	<b>598,764</b>	616,727	629,062	641,643
Contributions to / from Corporate Reserves	216,132	<b>216,132</b>	216,132	216,132	216,132
Net Operating Expenditure	10,632,934	<b>12,014,938</b>	12,809,408	14,231,956	14,555,625
Contribution from Surplus Savings Reserve	-1,221,563	<b>-2,343,005</b>	-2,429,838	-2,030,101	0
Savings to be identified	0	<b>0</b>	0	-2,354,960	-4,468,400
ECDC Budget Requirement	9,411,371	<b>9,671,933</b>	10,379,570	9,846,895	10,087,225
Parish Council Precepts	2,739,806	<b>2,849,398</b>	2,920,633	2,993,649	3,068,490
<b>DISTRICT BUDGET REQUIREMENT</b>	<b>12,151,177</b>	<b>12,521,331</b>	<b>13,300,203</b>	<b>12,840,544</b>	<b>13,155,715</b>
<u>Financed by:</u>					
Council's share of Collection Funds Surplus/Def	-283,649	<b>201,376</b>	0	0	0
Revenue Support Grant	-12,579	<b>-12,579</b>	86,263	-389,202	-394,910
Locally retained Non-Domestic Rates	-3,999,110	<b>-4,630,360</b>	-5,003,828	-3,757,982	-3,822,568
Plus: NNDR from Renewable Energy	-693,304	<b>-764,928</b>	-764,928	-764,928	-764,928
<b>COUNCIL TAX REQUIREMENT</b>	<b>7,162,535</b>	<b>7,314,840</b>	<b>7,617,710</b>	<b>7,928,432</b>	<b>8,173,309</b>

	Estimate 2022-23 £	Estimate 2023-24 £	Estimate 2024-25 £	Estimate 2025-26 £	Estimate 2026-27 £
Unallocated Surplus Savings Reserve					
In hand at 1st April	8,130,907	<b>6,802,944</b>	4,459,939	2,030,101	0
Movement in year	-1,327,963	<b>-2,343,005</b>	-2,429,838	-2,030,101	0
In hand at 31st March	6,802,944	<b>4,459,939</b>	2,030,101	0	0

<b>IMPLIED BAND 'D' COUNCIL TAX</b> (District only i.e. excluding parish levies)					
Demand on Collection Fund as above	7,162,535	<b>7,314,840</b>	7,617,710	7,928,432	8,173,309
Less Parish Precepts as above	2,739,806	<b>2,849,398</b>	2,920,633	2,993,649	3,068,490
	4,422,729	<b>4,465,442</b>	4,697,077	4,934,783	5,104,819
Council Tax Base	31,115.3	<b>31,415.8</b>	31,922.5	32,435.8	32,485.8
District Council Tax - Band D	142.14	<b>142.14</b>	147.14	152.14	157.14

**AGENDA ITEM 10 APPENDIX C**

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**COMPULSORY PURCHASE OF LAND AT LODE ROAD BOTTISHAM**

Committee: Finance & Assets Committee

Date: 4 October 2022

Author: Director Legal & Monitoring Officer

[X68]

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1.0 ISSUE

1.1 To seek approval for the Council to exercise its compulsory purchase order (“CPO”) powers on behalf of Bottisham Parish Council (“the Parish Council”) to acquire land to construct a new cemetery at Lode Road, Bottisham.

2.0 RECOMMENDATION(S)

2.1 That Council be recommended to authorise the use of the District Council’s compulsory purchase making powers pursuant to section 125 Local Government Act 1972 to acquire land on behalf of the Parish Council to allow for a new cemetery to be constructed; and

2.2 To delegate authority to the Director Legal to:

- (a) take all necessary steps to secure the making, confirmation and implementation of the CPO, including the publication and service of all relevant notices and to support the presentation of the Parish Council’s case at any local public inquiry;
- (b) serve a requisition for information (in accordance with section 16 Local Government Act 1972) on the reputed owner and other parties that may have an interest in the land as part of the preparatory steps associated with the making and promotion of a CPO;
- (c) approve terms for the acquisition of legal interests by agreement, either on behalf of the Council or in conjunction with the Parish Council, including for the purposes of resolving any objections to the CPO;
- (d) take all necessary steps to resolve any compulsory purchase compensation claims, including, if necessary, by making (or responding to) a reference to the Upper Tribunals (Lands Chamber);
- (e) enter into a suitable agreement with the Parish Council regarding reimbursement of all costs incurred by the District Council regardless of whether or not the CPO proceeds to completion;

- (f) transfer the relevant land to the Parish Council if the CPO proceeds to completion via a back-back sale, subject to reimbursement of purchase costs and all other relevant expenses and the inclusion of a restrictive covenant in the transfer to prohibit development or uses other than as a burial ground.

### 3.0 BACKGROUND/OPTIONS

#### Introduction

- 3.1 The Parish Council have requested the District Council to compulsorily purchase some land at Lode Road, Bottisham for the purposes of a new cemetery. This follows a formal resolution by Bottisham Parish Council on 3rd December 2018 to request the District Council to take forward the compulsory purchase of the land. This matter has taken some time to bring all the elements together and these are now in place for the compulsory purchase to be taken forward.

#### Background

- 3.2 The Parish Council has a power to acquire land by agreement for the purposes of a cemetery under s214 Local Government Act 1972, but there is no compulsory purchase power associated with this power.
- 3.3 The Compulsory Purchase Act 1965 and the Acquisition of Land Act 1981 do not permit a parish council to compulsorily purchase land; however, under section 125 Local Government Act 1972, a parish council may request the relevant “principal authority” to compulsorily purchase land on its behalf if it is otherwise unable to acquire it by agreement on reasonable terms. The District Council is the relevant “principal authority” in relation to the Parish Council.
- 3.4 The District Council must be satisfied that the land cannot be acquired on reasonable terms by agreement. If the District Council refuses the Parish Council’s request, the legislation states that the Parish Council can then approach the Secretary of State to request compulsory purchase of the land.
- 3.5 The land which the Parish Council wish to have compulsorily purchased is agricultural land and is currently owned by the National Trust for Places of Historic Interest or Natural Beauty under Title Number CB 340760 and is let to the Fairhaven estate.
- 3.6 The land is held by the National Trust as “inalienable” land under s21 National Trust Act 1907 or s8 National Trust Act 1939. The effect of being held as “inalienable” land means that the National Trust cannot voluntarily part with the land by agreement and transfer in the ordinary way to the Parish Council.

- 3.7 As stated above, the land is currently let to the Fairhaven family as farmland. The Parish Council currently have a licence for access to the land with the Fairhaven family to allow the Parish Council to carry out environmental assessments in connection with the proposed cemetery. The Fairhaven family are fully supportive of the proposals and are unlikely to make any objections to an application for compulsory purchase of the land.
- 3.8 As set out more fully in 3.21, the Parish Council have negotiated with the National Trust for a long lease but National Trust will not agree and therefore the Parish Council would prefer to obtain the freehold interest in the land in the long term.
- 3.9 The National Trust are fully supportive of the Parish Council's plans to acquire the land as the Parish Council had early engagement with them, the National Trust have allowed the Parish Council to access the land and have provided formal approval of the Parish's plans. The National Trust commissioned a valuation report of the land from Carter Jonas and the National Trust is working with the Fairhaven family to obtain a surrender of their current tenancy agreement for the land.
- 3.10 It is understood that the project to obtain land for a new cemetery commenced in 2013 when a formal residents' survey was carried out, examining the future needs of the village of Bottisham for interments. The Parish Council identified only one area of land within walking distance of the village that is suitable as all other land identified was too low lying or close to a watercourse; both matters are critical for a cemetery.
- 3.11 The project was communicated on numerous occasions to the village, both through the Parish magazine and at Parish Annual meetings. Throughout the process, the Parish Council state that they have only experienced support and no residents have raised any objections as to the choice of location, as residents understand that the chosen location is the only choice.
- 3.12 In promoting a CPO, Councils are advised by Government Guidance "*Guidance on Compulsory Purchase and the Cribel Down Rules*" (July 2019) ("the Guidance") that the Secretary of State will not confirm a CPO unless he is satisfied that there is a compelling case in the public interest.
- 3.13 In order to confirm a CPO, the Secretary of State must be satisfied that the District Council has a clear idea of how it intends to use the land it is proposing to acquire, that the District Council can show that it has all the necessary resources to achieve the objective of acquiring the land and the reason for acquiring the land will not be blocked by any physical or legal impediments to implementation.
- 3.14 The District Council would be seeking to compulsorily purchase the land and then transfer the land to the Parish Council for the purpose of a new

cemetery and therefore there is a clear idea of how the land is intended to be used.

3.15 In terms of resources, the District Council can recover from the Parish Council any expenses incurred, which would include administrative expenses, the cost of any inquiry that may be required, legal costs awarded, etc. In the first instance, the District Council would be responsible for costs but these would be recoverable from the Parish Council under a written agreement. The Parish Council have confirmed that they have a budget in the region of £250,000 which would meet those costs.

3.16 In terms of impediments, the Parish Council obtained pre-application planning advice from the District Council in 2015. The enquiry was in respect of the principle of the construction of a cemetery, parking area and additional space for recreation/planting. The Parish Council submitted a planning application on 9th June 2022 for the new cemetery under planning reference 22/00703/FUM and this is expected to go to Planning committee in the next few months with a recommendation for approval. If planning permission is granted, this would further support an application for compulsory purchase.

3.17 The Guidance makes it clear that in promoting a CPO, Councils should be sure that the purposes for which the CPO is made sufficiently justify interfering with the human rights of those with an interest in the land affected. Councils must also consider their public sector equality duty contained in the Equality Act 2010. In making this assessment, the Council should have regard, in particular, to the provisions of Article 1 of the First Protocol and Article 6 of the European Convention on Human Rights (“the Convention”). Article 1 states that:

*“... Every natural or legal person is entitled to peaceful enjoyment of his possessions...no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law...”*

3.18 Whilst the owner of the land may be deprived of their property if the CPO is confirmed, this will be in accordance with the law and appropriate financial recompense for the loss of property will be made. The CPO is being pursued in the public interest as required by Article 1 of the First Protocol as the District Council considers that the proposed CPO strikes a fair balance between the public interest underpinning the reason for which it is being sought, i.e. to secure more land for burial plots and the private rights affected.

3.19 Article 6 of the Convention provides that:

*“In determining his civil rights and obligations .... everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law”.* It is clear from case law that any

person affected by the proposals will have the opportunity to object, including attending at an inquiry into the CPO and therefore this requirement is satisfied in this instance.

- 3.20 Government guidance also provides that the Council is expected to provide “*evidence that meaningful attempts at negotiation have been pursued or at least genuinely attempted*”. Due to the land being “inalienable” land, voluntary transfer of the land has not been possible.
- 3.21 The Parish Council have attempted to negotiate a long lease of the land but the National Trust were not supportive of this as they are of the view that the land would effectively be unusable for any other purpose after interments. The Parish Council had sought a 999-year lease, but as the National Trust could seek compensation for lost rental to the Fairhaven family, the Parish Council consider that the cost of compensation over 999 years would far exceed the cost of purchase. Therefore, the Parish Council would prefer to obtain the freehold interest in the long term.
- 3.22 The District Council is also required to have regard to the extent of land held in the neighbourhood by the current owner and to the convenience of other property belonging to the same owner and shall, as far as practicable, avoid taking an undue, or an inconvenient, quantity of land from any one owner. The land sought is part of a much larger parcel of land in the same ownership and the amount sought represents a very small percentage of the agricultural land held within that parcel of land. Following the acquisition of the land, the owner will be left with a large parcel and the loss of part of their land will not impact on their ability to access the balance of their land.
- 3.23 The District Council must consider whether the disposal to the Parish Council is compliant with statutory restrictions and its own policy requirements.
- 3.24 In accordance with section 123 of the Local Government Act 1972 the District Council must obtain best consideration for disposals. Therefore, it must consider if a back to back transfer to the Parish Council is permissible.
- 3.25 A local authority is able to sell a site for less than its market value, but the general rule it must seek consent to do so from the Secretary of State. However specific consent is not needed where a council can demonstrate the sale will help to secure the improvement of the economic, social or environmental wellbeing of the local area, and the undervalue is only up to £2m less than market value. In these limited circumstances socio and economic benefits can be relevant rather than monetary value alone. The undervalue itself still needs to comply with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as set out in the Technical Appendix attached to Government Circular 06/03.



3.26 It is considered that the provision of the land for a cemetery will improve the social well-being of the area and therefore the transfer of the land to the Parish Council without going to the open market is appropriate.

3.27 The District Council has two options, which are: -

(A) Support the Parish Council and approve the recommendations at 2.1 and 2.2 of this report; or

(B) Refuse the Parish Council's request, giving full reasons, and the Parish Council may then approach the Secretary of State directly.

#### 4.0 ARGUMENT/CONCLUSIONS

4.1 Arguments in support of option (A) above are that the current cemetery at Bottisham is reaching capacity due to increased interments (including some arising from the Covid 19 pandemic) and the Parish Council are in danger of not being able to offer residents burial in the village without the additional land.

4.2 Arguments for (B) are that the District Council would initially be liable for the costs of obtaining the CPO, which could be as much as £120,000 (including compensation to the National Trust). Although the District Council would be able to seek these costs from the Parish Council, there is currently no budget for this matter.

#### 5.0 FINANCIAL IMPLICATIONS/EQUALITY IMPACT ASSESSMENT/CARBON IMPACT ASSESSMENT

5.1 The legislation (s125(5) Local Government Act 1972) provides a mechanism by which the District Council may recover from the Parish Council all the costs and expenses it incurs in connection with the acquisition of the land on behalf of the Parish Council in reliance on the CPO procedure. If approval is given, the District Council will enter into an agreement with the Parish Council in respect of recovery of all costs, regardless of whether or not the CPO proceeds to completion.

5.2 External legal advice sought has indicated that the costs are likely to have a ceiling of £40,000 if the matter proceeds to an inquiry. A further sum of £65,000 to £80,000 will be payable in respect of compensation to the National Trust in addition to these costs.

5.3 Equality Impact Assessment (EIA) not required. The District Council has had due regard to its Equalities Duties as specified under section 149 of the Equality Act 2010 to date and will continue to do so throughout this matter. In taking the decision to make a CPO, the Council considers that the proposal is fully compliant with the Equality Act and compatible with the Public Sector Equality Duty

The District Council considers that CPO action will be compatible with the Public Sector Equality Duty and as it will not have a significant negative impact upon protected groups. The land is not used disproportionately by any group with protected characteristics as it is currently used for agricultural purposes.

5.4 Carbon Impact Assessment (CIA) completed. In summary, the CIA concluded as follows:

For the Council, the overall impact is neutral as the Council's role is simply that of a purchaser/transferor of land and that action in itself has no meaningful carbon impact arising.

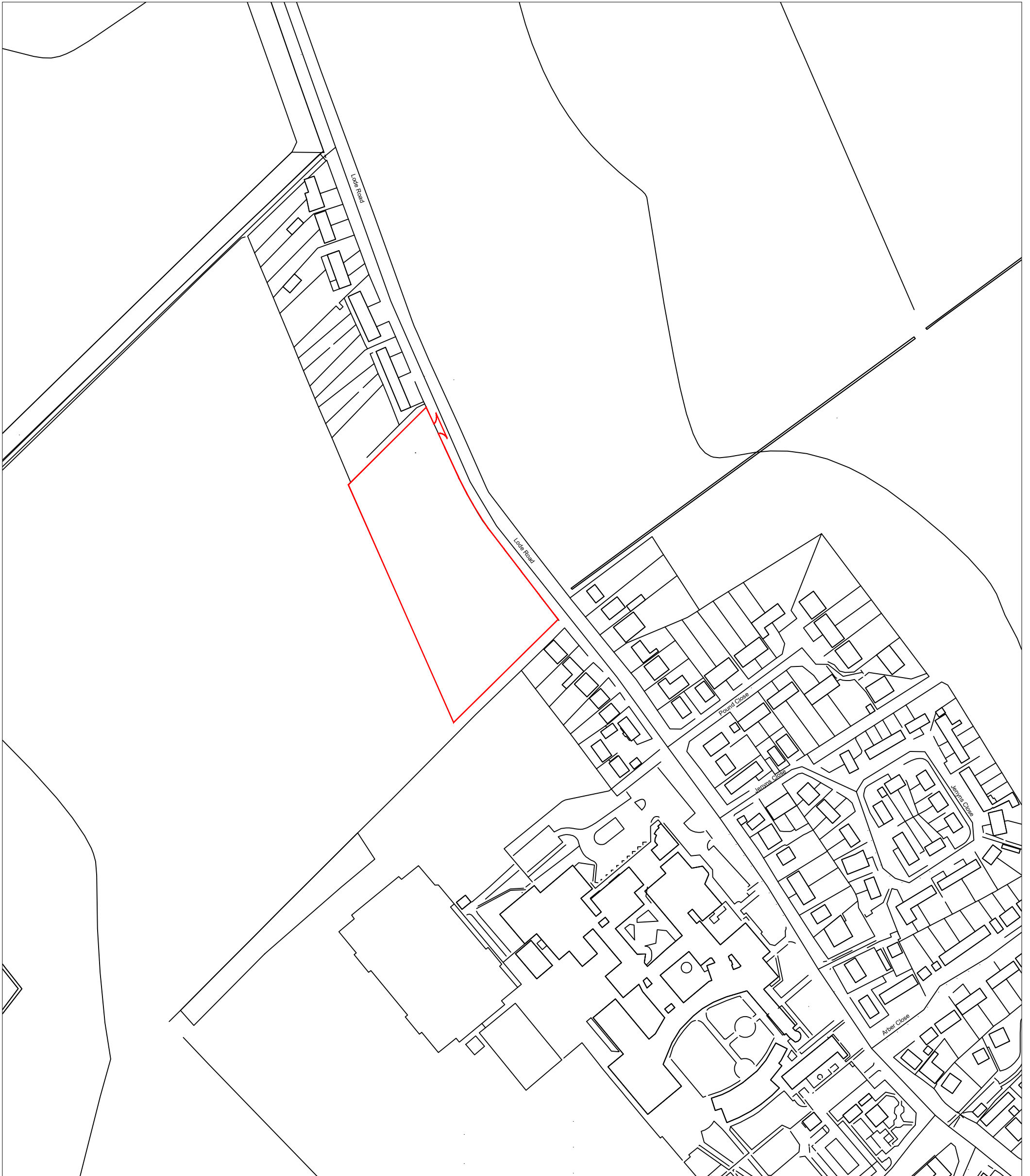
However, from a District wide perspective, the Council's role is directly facilitating the activity to proceed and as a consequence, albeit indirectly, the Council is facilitating the District wide impacts that may arise from the proposal. The overall District wide carbon impact is likely to be negative due to construction stage and the materials used on site. There is only likely to be a very minor carbon offset by planning tree planting, planting of shrubs on site and the addition of rich meadow grassland seed mix used for the proposed amenity area. Biodiversity has the potential to be a positive net gain, compared with "do nothing" subject to detailed planning consent.

6.0 APPENDICES

6.1 Appendix 1 – Location plan

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<u>Background Documents</u>	<u>Location</u>	<u>Contact Officer</u>
Legal file Ref: 1625 Government Guidance on Compulsory purchase process and the Crichel Down Rules	Room 112 The Grange, Ely	Maggie Camp Director Legal & Monitoring Officer (01353) 616277 E-mail: <a href="mailto:maggie.camp@eastcambs.gov.uk">maggie.camp@eastcambs.gov.uk</a>



<p><b>LEGEND</b></p> <p><span style="color: red;">—</span> Development Area</p>	<p>Scale 1:2500 @ A3</p>	<p>TGMS 4 Doolittle Mill, Frogthall Road, Amptill, Bedfordshire, MK45 2ND Tel: 01525 307060 Web: www.tgms.co.uk Email: enquires@tgms.co.uk</p> <p><small>TGMS and PSD Agronomy are trading names of Professional Sports Turf Design (NSW) Ltd Company Number 0180758. Registered Office: Sherrock House, 1 Faraday Court, Fulwood, Preston, Lancashire, PR2 9NB. Directors: Charles Henderson, Aileen Le Blau.</small></p>	<p><b>Drawing Title</b></p> <p><b>Site Location Plan</b></p> <p><b>Project :</b> Lode Road Cemetery</p> <p><b>Client :</b> Bottisham PC</p> <p><b>Consultant :</b> Richard Earl</p> <p><b>Date :</b> 06/01/2022      <b>Drawing Status :</b> Planning</p> <p><b>Scale :</b> 1:2500      <b>Paper Size :</b> A3</p> <p><b>Drawn by :</b> OM      <b>Checked by :</b> RE      <b>Approved by :</b> RE</p> <p style="text-align: center;"><b>Drawing Number</b></p> <p style="text-align: center; font-size: 1.2em;"><b>TGMS1053.6-5</b></p> <p style="text-align: right;"><small>Data copyright © PSD (NSW) Ltd 2022</small></p>																								
<p><b>Notes:</b></p> <p>1) Site Mid Point Easting: 553916 Northing: 261222</p> <p>2) Background mapping OS Vector Map Local © Crown copyright and database rights (2022)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="6">Revisions</th> </tr> <tr> <th>Rev</th> <th>Date</th> <th>Description</th> <th>Drawn By</th> <th>Checked By</th> <th></th> </tr> </thead> <tbody> <tr> <td>1</td> <td>12/05/2022</td> <td>Development area amended to reflect revised access road location.</td> <td>OM</td> <td>RE</td> <td></td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		Revisions						Rev	Date	Description	Drawn By	Checked By		1	12/05/2022	Development area amended to reflect revised access road location.	OM	RE								<p><b>Revision</b></p> <p style="font-size: 1.5em;"><b>1</b></p>
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