

**South Norfolk Council**

**Community Assets Strategy 2016**



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### 1. Introduction

The Community Asset Strategy is the Council's corporate land and property strategy that sets out how the council will manage all aspects of community assets. This Strategy involves more sustainable and progressive management regimes, encouraging greater community involvement with attendant benefits to health and wellbeing, enhanced biodiversity and opportunities for increasing local devolvement. Given the likely future funding challenges a key aim is to create a more sustainable approach to our asset management and minimising future liabilities given the challenging financial environment we are facing whilst ensuring open spaces and other community assets remain part of the South Norfolk landscape.

South Norfolk Council holds a variety of land and property assets within its portfolio. These can broadly be divided into three main asset groups:

- **Operational Assets** – Used by the Council or partners to deliver direct services such as leisure centres, waste services, Council offices. These are often subject to a separate Asset Management Plan or programme of works.
- **Investment Assets** – Assets held solely for the purpose of generating rental/investment income/capital. These are often subject to a separate Asset Management Plan or programme of works.
- **Community Assets** – assets held or managed by the Council that play a vital role in the community with regards to delivering the Council's corporate objectives.

For the purposes of this Strategy, community assets are defined as:

- Common Land – registered commons subject to Schemes of Regulation
- 'Commons' – none registered 'Public Open Space'
- Parks, countryside areas and public open space land
- Trees and planting
- Easements and rights e.g.
  - Easements/rights of access, drainage
  - Grazing rights, agricultural tenancies
  - Leases/licenses commented with or 'over' community assets
- Community infrastructure assets:
  - Roadways, street and community lighting, pathways, car park areas
  - Playgrounds and Play equipment
  - Public toilets
  - Benches
  - Signage
  - Safety equipment (lakes and ponds)

Community assets may be held or "managed" historically by the Council on behalf of the community in a number of different ways:

- Freehold ownership

- Assets owned by third parties or with no defined owner over which the council has statutory or management responsibilities (for examples Common Land)
- Assets held by the Council under Lease/license/agreement for community benefit
- Assets held by others into which the Council has an input via various mechanisms, management, financial, advisory

## 2. Corporate Vision and Priorities

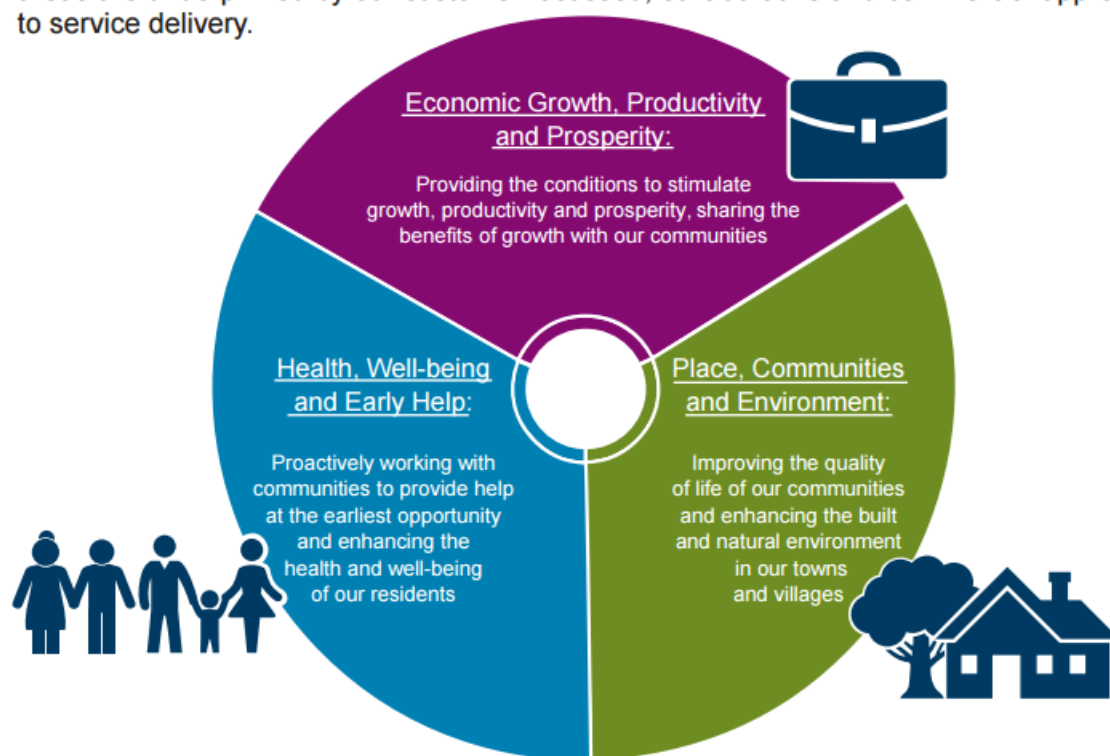
Community assets will be managed and maintained by the Council to enable the delivery of the Council's corporate vision, objectives, priorities and Business Plans as follows:

**Corporate Vision, 2016 to 2020:**

***“To retain and improve the quality of life and prosperity of South Norfolk, for now and future generations, to make it one of the best places to live and work in the country”***

**Corporate Priorities:**

We have three corporate priority areas where we focus our resources and efforts. These areas are underpinned by our customer focussed, collaborative and commercial approach to service delivery.



### 3. Community Asset Strategy - Summary

The Community Asset Strategy provides an overarching framework which defines how the Council will actively manage open spaces, commons and other community property to the maximum benefit of the Council and the community. The Strategy fully supports the corporate vision and priorities and can be summarised by the following fundamental principles:

- The introduction of more innovative sustainable management regimes including where appropriate “community divestment initiatives” supporting biodiversity and healthy living.
- An efficient and effective community asset and customer focused service making the most of our assets for the benefit of the community at least cost.
- Improving and increasing partnership work to deliver asset management:
  - Formulation of innovative delivery structures
  - Delivery of community development mechanisms.
  - Practical support as part of the Council’s ‘Early Help’ approach and the Health and Wellbeing strategy
  - Securing additional ‘government’, agency partnership and/or third party funding

<p><b>The Community Asset Strategy is intended to improve the future contributions made by community assets to the Council’s vision and priorities.</b></p>
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#### Guiding Principles

- To improve and increase the contribution made by community assets to the community and in particular the agenda for Health and Wellbeing given the Council’s vision and priorities
- To identify opportunities for income generation and low impact infrastructure initiatives
- To improve the contribution made by community assets to biodiversity
- To contribute to the Council’s Health and Well-being Strategy working with schools, adult educational programmes and through the delivery of Early Help projects
- To increase diversification opportunities through potential promotion of community based initiatives involving other areas of community interest:

For example:

- Sculpture/art in appropriate settings
  - Theatrical and musical events
  - Local craft markets
  - Community allotments
  - Community planting schemes
- To improve where appropriate opportunities for external funding contributions (Government agencies, partner agencies, private investment) towards community asset maintenance and improvement

- To promote community participation in asset management and maintenance through various mechanisms including:
  - Development of engagement initiatives enabling responsibility and involvement of public sector partners and community groups
  - Development of “divestment” initiatives where appropriate enabling public sector partners, community groups to take over Council management and maintenance responsibilities
  - Promotion of volunteer days assisting in community asset improvements and maintenance

**These guiding principles will be formulated into specific objectives and works programme as opportunities are identified within available resources.**

#### 4. Portfolio of Community Assets

These are assets of community benefit held or managed by the Council on behalf of the community which may have reservations, restrictions as to use and their disposal.

Asset	Number	Acreage	Maintenance Budget 2016/17
Commons and Parish lands	35	288.4	£20,000
Commons (Grants paid)			£26,000
Countryside sites	8	102.6	£30,000
Amenity land	103	73.6	£20,000
Cemeteries	2	3.7	£4,000
Street/footway lighting	1,063	N/A	£29,000
Play equipment (including inspection)	62	N/A	£97,000
Heritage sites	1	N/A	£2,500
Grounds maintenance services		N/A	£244,604
<i>Note – Data taken from South Norfolk Asset Management Plan and Programme 2014-17.</i>			

A number of community assets have been identified as surplus under the Council’s existing asset management plan and programme 2014/17. These assets will be reviewed during 2017/18 against the overarching vision and priorities of the Council and the approach determined by the Community Asset Strategy.

This Strategy has strong links with the following plans and strategies:

- South Norfolk Corporate Plan 2016/20
- South Norfolk Business Plan 2016/17
- South Norfolk Local Plan (2011 – 2026)
- South Norfolk Capital Strategy 2014/17
- South Norfolk Capital Programme
- Economic Growth Strategy (2016 – 2021)
- Tree Management Strategy
- South Norfolk Alliance, Your sustainable Community Strategy for South Norfolk (2008 – 2018)

Council Management Plans to be produced subject to approval of the Community Asset Strategy:

- |  |                                 |
|--|---------------------------------|
| • Tree Maintenance Plan                                    | Proposed implementation 2017/18 |
| • Community/Street Lighting Management Plan                | Proposed implementation 2017/18 |
| • Playgrounds/Play Equipment Management Plan               | Proposed implementation 2017/18 |
| • Public Open Spaces management Plan                       | Proposed implementation 2017/18 |
| • Common Land and a Registered Commons Management Strategy |                                 |

The Community Asset Strategy and associated Management Plans will have due regard to:

- Legislative and regulatory provisions/recommendations
- Codes of best practice
- Associated financial and regulatory constraints

## **5. Scheme for managing Community Assets**

The Council will review, prepare and update the following strategies and management plans to reflect the Council's vision and objectives within this Strategy in relation to the following topical assets:

### **A. Introduction of Commons Land (Regulated Commons) Management Strategy**

#### **Outcomes:**

- A strategic approach to commons management.
- Clear definition of the Council's management responsibilities
- Clear definition of owner, partner and owner responsibilities
- Enhancement of divestment opportunities

### **B. Tree Maintenance and Management Plan**

This will include existing contracted survey and maintenance arrangements and the preparation and implementation of a robust, sustainable and risk based management and works regime.

#### **Outcomes:**

- Robust sustainable risk based survey and management strategy
- Identification of opportunities for active woodland management techniques enhancing woodland health, biodiversity, increased community access
- Identification of opportunities for increased involvement of services regarding survey and maintenance followed by potential to provide contracted services externally

### **C. Community/Street Lighting Management Plan**

This will include the preparation of a robust, sustainable and risk based management plan.

#### **Outcomes:**

- A robust risk-based maintenance and survey regime and decision making based on future sustainable management
- The ability to introduce new technologies to reduce future maintenance and electricity costs.

### **D. Playgrounds/Play Equipment Management Plan**

To include the preparation of a management plan which will detail the Council's standards and policy for existing and new play areas and equipment as part of developments.

#### **Outcomes:**

- Provision of challenging and safe play environments providing long term benefits to residents' health and wellbeing.
- The affordable enhancement of existing play equipment infrastructure by a robust quality plan of equipment replacement and installation
- Affordable quality planting schemes adjacent to play equipment providing enhancement to the environment and educational/community involvement opportunities

### **E. Public Open Spaces Management Plan**

The preparation of management plans which detail standards and policy for public open/communal space as part of the planning policy development process.



**Outcomes:**

- The affordable enhancement of existing public open space management regimes to provide maintainable, consistent quality environments in keeping with their location which is affordable
- Affordable quality planting schemes providing enhancement to the environment and educational/community involvement opportunities
- Increased opportunities for community divestment

## 6. Divestment Strategy

South Norfolk's community assets represent valuable and in some instances landscapes and environments which deserve careful and proactive management so as to ensure their protection and availability for the use and enjoyment of the community.

The Council promotes community involvement and where appropriate 'divestment' enabling other organisations and groups to undertake the future management, improvement and maintenance of community assets. Given ongoing resource constraints it is important that the Council actively promotes alternative management approaches.

Any divestment partnership arrangement must be appropriate taking into account the following fundamental principles:

- Many Community Assets have legal encumbrances in the form of statute, covenants, restrictions and reservations which restrict opportunities for disposal.
- The Council in divesting of a community asset must where applicable ensure adequate and legally enforceable protection of that asset in the form of covenants and reservations. Generally such protection is more legally robust when an asset is disposed of under lease or license as opposed to freehold sale.
- Any disposal of public open space must comply with legislative provisions.
- The divestment partnership mechanism chosen must:
  - I. Enable the recipient organisation/group to meet current and future objectives and plans.
  - II. Ensure that the asset remains protected for the benefit of the community.
  - III. Provide identifiable advantages in terms of community benefit, management and financial terms as compared with retention by the Council.
  - I. Ensure local community involvement in the divestment process ***with the principle that the local Parish or Town Council have 'first refusal' albeit that the Council will make a decision based on the overall interests of the Council.***
  - IV. Comply with the Council's statutory, legal and fiduciary duties.

A community asset will only be considered as 'surplus' and therefore available for unencumbered freehold sale in the following circumstances:

- II. The Council has undertaken a robust review and identified that the asset concerned provides no current or future identifiable community need.
- III. Unencumbered freehold sale is considered to be in the public interest and accords with the Council's legislative and fiduciary duties.
- IV. There is no financial benefit from retention having regards to:
  - The financial and other resources required in continued ownership.
  - There are no current/future development opportunities/considerations.
  - The financial consideration achieved through sale represents 'best value' taking into account:
    - The provisions of Section 123 of the Local Government Act 1972.
    - The cost of future maintenance and management of asset if retained.
- V. Disposal complies with legislative provisions.
- VI. Public or community consultation in accordance with legislative provisions has been undertaken.
- VII. ***That the local Parish or Town Council have 'first refusal' albeit the Council will make a decision based on the overall interests of the Council.***

## 7. Acquisition Strategy

The Council may acquire community assets in exceptional circumstances:

- There is an identified community need or benefit from acquisition
- Acquisition will add value to an existing community asset
- Acquisition offers protection to an existing or proposed community asset

All acquisitions will be assessed through a robust business case with particular reference to costs, benefits, impacts and risks of the asset and how it relates to the Council's corporate objectives. Acquisitions can be undertaken through negotiation, auction, Compulsory Purchase Order (CPO) Acquisitions will be undertaken in accordance with Council policy and Rules of Governance.

The Community Infrastructure Levy introduced under the Planning Act 2008 is a charge on almost all forms of development providing contributions towards the infrastructure needed to support growth in an area. It is intended for general infrastructure contributions whereas S106 is intended for site specific mitigation. The Council adopted CIL charging in 2014. CIL general provisions are:

- Must be spent on infrastructure to support development of the area.
- CIL can be spent on the provision, improvement, replacement, etc of infrastructure; it does not have to be used to fund capital investment.
- Infrastructure can include sporting recreational facilities and open spaces.
- CIL cannot be used to fund anything that is not required to support the development of the area.

After 1 April 2017 the Council will accept no further transfer of S106 infrastructure. The Council's expectation being that the developer is expected to make arrangements for the adoption of open spaces, street lighting, SUDs etc. as part of the development management process and to arrange long term robust management and maintenance strategies to cover all future responsibilities. ***Parish or Town Council's will, as now, be able to negotiate with the developer to adopt infrastructure although the Council cannot dictate who ultimately adopts.***

## 8. Tree Management Strategy

The 2014 Tree Management Strategy covered trees, hedgerows, high hedges. The strategy has the following key objectives:

- Identify and adopt a standard framework for managing and maintaining tree stock.
- Reduce risk from hazardous trees.
- Ensure efficient use of resources.
- Control and monitor tree maintenance.
- Ensure trees continue to enhance the character of the district.
- Replace trees where there is a requirement under TPO, conservation area and where there is need.

The Natural Environment and Rural Communities Act 2006 created a duty for local authorities to conserve biodiversity. This Council's vision is to continue to protect and enhance our natural environment.

Currently tree surveys and maintenance is undertaken by contractor upon an annual basis as well as works remedial works being undertaken directly by the Council's depot. In order for the Council to meet its tree management objectives, during 2016/17 a Tree Management and Maintenance Plan will be prepared incorporating:

- A risk based approach.
- Inspections and surveys carried out by suitably trained arborists under a tendered contractual approach providing the following information:
  - An effective computer based record system whereby all relevant trees are GIS identified and recorded.
  - A risk based assessment approach taking into account zoning.
- Future inspection regime and frequency based upon risk.
- Schedule of works both maintenance and improvement based upon survey information.

The introduction of the Tree Management and Maintenance Plan will enable the Council to:

- To adopt a more robust approach as compared with existing annual arrangements.
- Develop closer links in order to maintain compliance with the Council's policies regarding Tree Preservation Orders and consent to works.
- Prepare annual and cyclical maintenance plans that are risk based and financially costed.
- Provide better control as regards allocating contractor, in house staff and maintenance resources against priorities.
- Identify future opportunities for improvement programmes.
- Provide greater control as regards biodiversity.
- Assist in creating opportunities for government and third party funding.
- Assist in creating opportunities for greater partnership working with Parish/Town Councils and local volunteer groups.

## 9. Footway Lighting Management Plan

Footway lighting within the South Norfolk area falls under the following responsibilities:

- Street lighting directly maintained by Norfolk County Council as Highway Authority.
- Street lighting maintained by the Highway Agency e.g. the A11 and A47.
- Street lighting maintained/owned directly by Parish Councils:
  - Hethersett, Long Stratton, Pulham, Roydon, Scole, Wortwell, Hingham, Dickleburgh, Cringleford, Ashwellthorpe.
- Street lighting within Parish and Town Council areas managed by this Council and some owned by Saffron Housing Association but maintained by the Council.

As at 2016, the Council maintains circa. 1,061 street lights on behalf of Parish/Town Councils and Saffron Housing. The Council will in future review the provision of footway lighting in line with the general principles of this strategy and the future approach and policies of the Council.

## 10. Playgrounds and Play Equipment Management Plan

The Council manages some 62 equipped playgrounds across the district. Various policies and strategies currently relate to playgrounds. They will be subject to review, where appropriate, in tandem with the relevant planning policies:

1. The South Norfolk Recreational Open Space Requirements for Residential Areas 1994 states:

- Children's play space - required for all developments where overall density of estate is greater than 16 dwellings/ha.
- Minimum open space required – 400 sq m for 15-24 dwellings, 1000 sq m for 25-50 dwellings plus 17.5 sq m per dwelling over 50.
- Where developers wish the District Council to assume ownership of open spaces, a contribution for maintenance in the form a 10 year commuted lump sum **has been** required. The appropriate Town or Parish Council will, **in the first instance**, be asked **if they wish to** assume ownership. It should be noted that only a small proportion of new playgrounds are taken by Parish Councils.

2. A Play Strategy for South Norfolk (2007 to 2012)

3. European Standards for Play Areas EN 1176/1177

4. ROSPA Play Safety Standards

5. Currently safety inspection of play equipment is undertaken under an ESPO Framework contract upon an annual basis. This contract is currently being reviewed.

6. ROSPA currently undertakes an annual inspection of all playgrounds.

The following work programme is planned for 2016/17 and beyond:

- Preparation of a playground and play equipment management plan incorporating:
  - Proposed standards for future play equipment.
  - Proposed standards for playground provision.
- Review of risk based inspection regime.
- Preparation of annual programme of planned/cyclical maintenance work in addition to responsive maintenance regime which currently exists.

## 11. Public Open Space Management Plan

The Council owns or manages a variety of public open spaces and countryside sites. Currently cyclical maintenance such as grounds maintenance (Grass cutting, hedge trimming, litter removal, waste bins) is undertaken by the depot. In addition ad hoc inspection regimes and responses to maintenance problems identify additional work to be undertaken by the depot or by private contractors (depending upon the scope of the works).

Currently a need has been identified for:

- A reviewed cyclical grounds maintenance strategy ***with engagement with the local parish/town council.***
- An open space strategy defining the Council's intentions with regards to:
  - Quality standards with regards to landscaping and planting schemes.
  - Assessment of current biodiversity and proposed improvement strategy.
  - Programmes of improvement.
  - Proposals regarding greater public and community use of open spaces.
  - Proposals regarding divestment and greater community involvement.
  - Enhanced opportunities for increased community volunteer schemes.
  - Opportunities for increased government and third party funding.

The Public Open Space Management Plan proposed for 2016 onwards is intended to address these issues and provide a clear strategic direction and affordable 'improvement approach' which accords with South Norfolk Council's vision and priorities.

## 12. Common Land – (Regulated Commons) Management Strategy

The Council manages five registered Commons; they are Mulbarton, Swardeston, Hales Green, Smockmill, and Flordon. These Commons are privately owned land (Save for one which has no identifiable owner), over which there are “rights in common” which include:

- Defined rights to graze certain stock.
- Rights of access to everyone to roam including walking, picnicing, running etc.
- Certain specific rights of access benefiting property adjoining the Common.

The Commons Act 1899 as amended by the Commons Act 2006 introduced Local Authority Schemes of Management which gave powers to District Council to make schemes for regulation and management, including the making of byelaws. In addition Local authorities produce “Management Plans” which are non statutory guidelines setting out how the common land will be managed.

It is the view of DEFRA that where common land is subject to a scheme of regulation the Commons Act 1899 the effect of the scheme is that the local authority becomes responsible for managing the land. Such schemes usually include a clause requiring the LA to keep the common free from encroachment.

Virtually all works to a common (including changing the surface, structures) require Secretary of State approval under S38 of the Commons Act 2006. The purpose of this formal application process being:

- Stock of common land is not diminished.
- Works take place only when they maintain or improve the condition of the common, or exceptionally where they confer some wider public benefit.
- Applications are assessed taking into account the interests of the neighbourhood and public interest.

All registered common land is subject to Part 3 of the 2006 Act which makes it unlawful to construct any works which would restrict or prevent access to the land, or to resurface the land without the consent of the Secretary of State. This means it is unlawful to erect a fence (except those temporarily installed and removed for animal husbandry) or a building/structure. Such work is not an offence but any person may ask the courts to require the works to be removed.

Where works are undertaken and no action is taken it may be possible to show factual possession and in such cases the fact that such works are unlawful does not, in itself undermine a claim to adverse possession. As a general rule encroachments/works resulting in a successful claim for adverse possession are more likely to be established if there are rights that the landowner could have granted, then after 20 years the right can be established and no one can object.

It should however be noted that a successful adverse possession claim does not change the designation of the common land involved.

Responsibility for enforcement against encroachment/unlawful works lies with the landowner, local community and any person (including the local authority, Parish Council) may seek enforcement action by application to the County Court.

Of note is the view of DEFRA relating to proposals to construct/improve driveways across common land. Whilst consent to works is required by the landowner and under S38 of the 2006 Act such applications may be consistent with continued use of common land even where the driveway is entirely for private use, because construction will not prevent public access, or access for commoners animals.



The legal position regarding common land and encroachment/unlawful works can be complex depending upon the nature of the breach and its impact upon the environment and access being available to all.

Any potential encroachment/works in order to be fully complaint would require:

- Formal consent of the landowner such consent being in accordance with the management scheme introduced by the local authority.
- Formal approval by the Secretary of State to the works under S 38 of the 2006 Act.

Alternatively unlawful encroachment/works could be legitimised by a successful claim for adverse possession after a period of some 20 years or by an unsuccessful enforcement action through the County Court.

A number of the Commons have been the subject of numerous historic encroachments and unlawful works as well as a number of more recent issues.

The majority of historic encroachment/works including works undertaken by the Council have not been the subject of objections by either the landowner or public users/graziers. Indeed, Council works have often been in direct response to users/residents concerns and the desire to improve the amenities and use of the common land.

Under the Community Asset Strategy this Council will define its future management style and strategy with regards to common land.

From initial assessment there would appear to be little to be gained from pursuing historic cases of encroachment/unlawful works especially where works have been supported by the community, landowner and users.

However recent/current cases (for example those occurring within say the last 3 years) could be considered for action in order to ensure that the Council manages common land in accordance with its obligations and safeguards the land for the benefit of all. Such action would take two forms depending upon a pragmatic and reasonable assessment of case circumstances:-

- I. For encroachment/unlawful works which are not considered to detriment the common land and access rights (examples – access to property where similar access exists, signs, boundary fences) the parties involved are advised:
  - To seek formal consent from the landowner.
  - To formally apply under S38 for Secretary of State consent to work.
- II. Works considered to be of detriment to the common land and users (examples – encroachment by owners moving boundary fences, unlawful structures, signs, car parking areas not considered appropriate) are formally pursued by the council ideally with a successful outcome not involving litigation.

A key element of this enforcement approach will be providing adjoining residents, owners and key partners such as the Parish Council with clear written advice covering:

- The legal position regarding Common Land regarding encroachment and authorisation of works.
- A clear statement from this Council of its management responsibilities with regards to the Common.
- A clear statement from this Council with regards to its expectations of others regarding areas of maintenance where contributions are expected from primary users.

In addition the Council will on an ongoing basis review existing Management Plans in conjunction with partners in order to provide a uniform approach regarding:

- Identifying a clear programme of works to include:
  - Cyclical maintenance to be carried out annually.
  - Cyclical maintenance to be carried out bi- annually or at a determined frequency.
  - Responsive maintenance tasks (one offs).
- A clear programme of works will enable the following improvements to be made regarding Commons management and maintenance:
  - A prioritised financially based programme set against available finances.
  - Division of programme responsibilities between South Norfolk Council, land owners, Parish or Town Councils, and third sector or volunteer groups.

In the future the Council is keen to engage landowners/users/residents with regards to Community Asset transfer. One mechanism for this defined in the 2006 Act is Commons Councils individually established through an order made by the Secretary of State. The powers of a Commons Council could exceed those available to the local authority (albeit the local authority is likely to be a member) depending upon the powers conferred by the Secretary of State.

It is understood that a Commons Council or similar collective body may be more likely to be successful in securing third party funding.