



North Devon Council

Report Date: Monday, 7 October 2024

Topic: Lynmouth Sea Pool

Report by: Helen Bond, Property Manager

1. INTRODUCTION

- 1.1. North Devon Council own a freehold property, which sits in the intertidal habitat of Lynmouth coastline.
- 1.2. Officers have been approached by Members of the Town Council and the NDC Ward Member about undertaking works to the sea pool and bringing back into public use.
- 1.3. Lynmouth Sailing Club CIC (Company Number 13269969) (LSC CIC) have come forward to take the freehold from NDC.

2. RECOMMENDATIONS

- 2.1. That Members approve the transfer of the Freehold of this asset to the Lynmouth Sailing Club CIC and henceforth have no further dealings with the asset
- 2.2. The asset is handed over in its current condition with no financial or other commitment from NDC
- 2.3. A contribution towards NDC's legal fees will be requested should the transfer proceed.

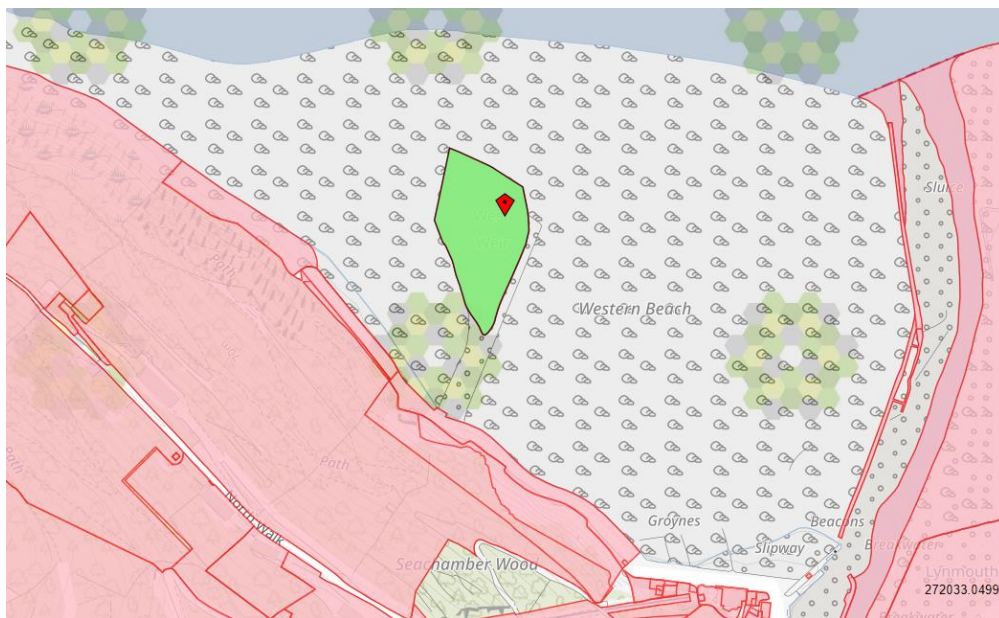
3. REASONS FOR RECOMMENDATIONS

- 3.1. To satisfy the needs of the local community in promoting and running this tidal sea pool.
- 3.2. In the current circumstances, North Devon Council could not support the risks associated in managing this facility, which needs maintenance to bring it back into a standard where it can be utilised more actively as a public swimming/non-powered watersports area.
- 3.3. North Devon Council would not wish to be responsible either directly or indirectly with the risks associated with this asset. The site is publically accessible from The Esplanade, which is a Council owned (but Lynton and Lynmouth Town Council managed) asset.
- 3.4. There is a potential reputational risk to the Council if the asset is handed over to the CIC and an incident occurs. However, as stated above, this asset is publically accessible and in passing over the freehold of the asset the Council would pass the site as it is, retain no legal obligation for the site and the CIC would have to ensure that it puts in place all relevant measures, insurance and carries out maintenance etc.
- 3.5. The asset is not easily accessible, the land around it is not registered and the ownership/responsibility for this land is unclear.

4. REPORT

- 4.1. Officers were approached in June 2022 by members of the Community and Town Council about the potential to reinstate the Victorian sea pool at Lynmouth. At that time, they indicated that some remedial works were necessary including work to the boundary, access path and access; some work would also need to be undertaken on the intertidal habitat and water quality would need to be of bathing quality.
- 4.2. The asset sits in the intertidal area of Lynmouth sea front. The Historic Environment Record for Exmoor National Park (MDE11714) indicates that it is the remain of a fish weir of probable medieval or post medieval date and later used as a bathing pool; maps from 1904 show the annotation of 'Bathing Pool'. It is clearly visible on aerial photographs from 1946 onwards, but its condition and maintenance need is likely to have resulted in this use being intermittent since 1887 when a survey identified a break to its central wall. The break to the sea wall on the above survey, gives an indication of why the pool only remains part full at low tide. Hence the proposal by the LSC CIC to undertake repairs.
- 4.3. The high tidal range in Lynmouth means access to the pool on foot is not viable outside low tide times.
- 4.4. The Community expressed their intention to undertake the needed works to progress the project, asking for North Devon Council's permission to do so.
- 4.5. At this point, to enable this use of NDC's asset, NDC indicated that it would need substantial information and stakeholder engagement with a number of parties including the Marine Management Organisation, Environment Agency, Natural England and Exmoor National Park. NDC would also require the Town Council to take the asset at its own risk, Officers could not support NDC supporting the asset due to health and safety implications
- 4.6. The Town Council did not wish to take the freehold of the asset, and instead a Community Group/CIC has come forward.
- 4.7. Officers do not want to be unsupportive of this project but cannot accept any current or ongoing liability for NDC.
- 4.8. Officers have consulted with Legal Services and are advised that should the asset be passed in its entirety to a third party, no liability would fall to NDC, the liability would sit with the new owner of the asset.
- 4.9. NDC does not own the intertidal area around the sea pool, this is unregistered. The legal ownership of this foreshore land is unclear and therefore there may be issues in terms of who can give access to the site as there is a gap between the site to be transferred and the Council owned site at The Esplanade, however this lack of clarity over legal rights of access would be for the CIC to accept on taking on the sea pool site.

- 4.10. Historically, it would appear that there may have been steps and a shingled path from the esplanade car park, this is also likely to have been a short pier for Victorian bathers. These elements no longer exist and due to the topography and change in levels, would mean that it is not possible for NDC to give access from its own assets including the Esplanade car park. Some evidence of this remains in the form of old metal supports, which could themselves present a Health and Safety issue. The access to the beach from Esplanade car park has been closed off for many years due to safety issues, and will not be allowed to be reopened as this now forms a part of the coastal defences.
- 4.11. NDC cannot give the CIC any access rights to the asset over the sea wall adjacent the main highway along the seafront, which is owned by DCC. As set out above, ownership of the area around the pool is unclear and as such NDC is unable to grant rights of access or otherwise assist the CIC. There is however public access to the intertidal area, substantially on the basis that the lack of clear ownership of the foreshore means that members of the public are not constrained from accessing it, albeit this not being freely accessible to all potential users.
- 4.12. Should members wish to support this project, we are recommending that they approve the freehold transfer of the asset to the CIC, with the CIC being asked to make a contribution towards NDC's legal costs. NDC would not seek payment for the asset.
- 4.13. A freehold transfer could not stipulate the nature/functional of the use of the asset, the management responsibilities would pass to the CIC, but would not be governed by the Council.
- 4.14. NDC are also taking part in a Coastal Study with the Environment Agency; the CIC would need to understand that any results of this may impact on any works to the foreshore.
- 4.15. Members should advise as to whether each party is to cover legal costs or whether NDC legal costs should be covered by the LSC CIC.



5. RESOURCE IMPLICATIONS

5.1. Legal and Property Team resource in the transfer of the asset

5.2. No VAT implications if the asset is passed over a nil value



6. EQUALITIES ASSESSMENT - TBC

6.1. [If your proposal has a potential positive or negative impact on people either internally or externally, please refer to the Equality Impact Assessment Guidance. You will need to complete the Equality Impact Assessment (EIA) available on Insite and upload it as an Appendix to this report. **Please include here a summary of the outcomes of the EIA.** If you consider that this proposal has no relevance to equalities and the protected characteristics, please record your reasons why you consider that it has no relevance.]

7. ENVIRONMENTAL ASSESSMENT - TBC

7.1. Please undertake an Environmental Assessment and complete the checklist (EAC) form available on Insite. If there are no environmental implications arising from your proposals please state that there are none. If after completion of the assessment there are environmental implications please provide a brief summary. If you require any further information please contact the Sustainability and Climate Change Officer. Email completed EACs to donna.sibley@torridge.gov.uk

8. CORPORATE PRIORITIES

8.1. What impact, positive or negative, does the subject of this report have on:

8.1.1. The commercialisation agenda: Passing over an asset of no value, but if ran by the Council, could have significant resource implications

8.1.2. Improving customer focus and/or – Allowing the community to take over this asset for public benefit

8.1.3. Regeneration or economic development – N/A

9. CONSTITUTIONAL CONTEXT - TBC

9.1. The decision in respect of the recommendations in this report can be made by this Committee pursuant to delegated powers provided in Part 3 Annexe 1 paragraph 1

10. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

11. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).



12. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

List of Councillors and Officers

Councillor J Patrinos

Councillor M Prowse

Senior Management Team

Legal Services and Accountancy/Finance

Helen Bond – Property Manager