

The following questions have been submitted by residents in relation to the town council's decision to install a new play area on the walled tarmac space on the south esplanade.



Under-utilised unattractive space on South Esplanade

1. Was a risk assessment undertaken by the town council on the chosen location of the play area?

The location has not been subject to a risk assessment by the town council. Appropriate risk assessments, method statements and insurances will apply as part of the development process.

2. Please advise what planning processes are needed for such a development.

The town council is not the appropriate body to advise on planning processes. The local planning authority is Sedgemoor District Council, further details and its contact details can be found here: <https://www.sedgemoor.gov.uk/planning>

Additional info:

The planning authority has confirmed that the play area to be installed at the identified seafront location comes under permitted development.

3. Please advise what public consultation processes are required for such a development, and provide a link, if there is one, to the consultation section of the town council website.

The town council is not aware of any statutory requirement on it to hold a consultation on the intention to install a play area. Any consultation requirements that relate to planning matters can be obtained from the local planning authority, as above.

There are currently no live consultations on the town council website that relate to this matter. When consultations take place, they are promoted via the website's News section: <https://burnham-highbridge-tc.gov.uk/news>, further promoted via Twitter and shared with outside media via a press release. To

receive news items to your inbox, please sign up here: <https://burnham-highbridge-tc.gov.uk/>

Additional information:

Consultation took place in May 2018 on the use of the area in question and the information continues to be publicly available.

Information stands were set up at the 25/05/18 Farmers Market and the 26/05/18 Food Festival. Questionnaires were made available to everyone, either at events, through social media, websites and news media, as shown in the examples below:

<https://twitter.com/BOSHTownCouncil/status/1001427681345355776>

<https://www.burnham-on-sea.com/news/evolution-project-17-05-18/>

<https://www.burnham-on-sea.com/news/farmers-market-preview-24-05-18/>

<https://www.burnham-on-sea.com/news/evolution-project-food-festival-28-05-18/>

<https://www.burnham-on-sea.com/news/evolution-business-case-approved-18-06-18/>

<https://www.burnham-on-sea.com/news/350000-boost-regeneration-project/>

The Burnham Evolution processes for consultation can be found here:

<https://burnham-highbridge-tc.gov.uk/wp-content/uploads/2020/04/Final-Burnham-Evolution-Business-Plan-19-06-18.pdf>

Appendices for the Business Plan, breaking down consultation responses, can be found here:

<https://burnham-highbridge-tc.gov.uk/wp-content/uploads/2021/01/Final-Burnham-Evolution-Business-Plan-appendices-19-06-18.pdf>

All town council meetings are open to the public, with a public participation session held prior to the formal agenda. Dates of meetings are publicised on the town council website here: <https://burnham-highbridge-tc.gov.uk/agendas-minutes-and-reports>

Contact details for councillors are publicly available on the town council website here: <https://burnham-highbridge-tc.gov.uk/your-council/meet-the-councillors>

4. What competitive tendering process is required for a contract to install a play area?

A procurement exercise by a local council is subject to the requirements in s. 135 of the Local Government Act 1972 and the Public Contracts Regulations 2015. This is reflected in the council's Standing Orders, available here:

<https://burnham-highbridge-tc.gov.uk/policies/standing-orders> and Financial Regulations, available here: <https://burnham-highbridge-tc.gov.uk/policies/financial-regulations>

Any contract over £25,000 must be published on the Contracts Finder website and include at least the following: (a) the time by which any interested economic operator must respond if it wishes to be considered; (b) how and to whom such an economic operator is to respond; and (c) any other requirements for participating in the procurement. The play area opportunity, as advertised, is available here:

<https://www.contractsfinder.service.gov.uk/Notice/f1e260d7-5b48-4f30-9841-48876a09008d?origin=SearchResults&p=1> and on the council's own website, here: <https://burnham-highbridge-tc.gov.uk/your-council/finances/contracts>

5. What competitive tendering process was undertaken and at what point in the process is the council?

Details of the tendering process, included in the specification, can be found here: <https://burnham-highbridge-tc.gov.uk/your-council/finances/contracts>

On 28th September 2020, on resolution 69/20/TIMP of the Town Improvements Committee, the council resolved to enter into a contract with Wicksteed Leisure Ltd for the provision of a seafront play area & trim trail. Council staff are proceeding with the administration, as instructed.

6. How many tenders were submitted and by whom?

Six (6) tender submissions were received from:

Wickstead Leisure Limited
Proludic Ltd
Sutcliffe Play (South West) Ltd
Kompan Ltd
Caloo Ltd
Swan Paul Partnership Ltd

7. What were the costs of the highest and lowest tenders submitted?

The lowest price was £81,808.33 and the highest was £87,400.00

8. In the light of the tenders received, does Wicksteed's represent value for money?

The tender submissions were assessed on best value, which included an assessment of the play value. On application of the assessment process, detailed in the specification at 1.3, here: <https://burnham-highbridge-tc.gov.uk/wp-content/uploads/2021/01/Burnham-TC-New-Esplanade-Play-Area-Contract-Requirements-Schedule-of-Client-Specification.pdf>, Wickstead Leisure performed best in the technical selection process and it was joint best performer during the interview process. By virtue of min ref. 69/20/TIMP (28/09/2020), available here: <https://burnham-highbridge-tc.gov.uk/minutes/28th-september-2020-town-improvements-minutes>, the town council's Town Improvements Committee resolved that the submission did represent value for money.

9. Were all those who tendered also asked to quote for alternative locations and, if not, why not?

Tendering companies were not asked to quote for alternative locations. The location of the new play area had been agreed under the Burnham Evolution Business Plan.

10. Who will be responsible for the short term and long-term maintenance costs?

The Community Impact Mitigation Fund, that provided the grant to pay for the play area, included an additional £25,000 to be used for maintenance of projects under the scheme (it is anticipated that the fund will be used for maintenance of Princess theatre seats c.£5k and the play area c.£20k).

In the short term, Sedgemoor District Council will be, by formal agreement, responsible for inspection and maintenance of the play area. The arrangement in the longer term is subject to the results of ongoing local government reorganisation and will depend the structure of the bodies in place at that future point; the play area will fall within the responsibility of a local authority.

11. Did consideration of maintenance play a part in the decision to award a contract?

Yes, maintenance did play a part in the award decision. 10% of the 70% assessment total score was allocated for the written assessment relating to warranties. Within the specification, submission details were requested on 3 years maintenance costs and 3 years maintenance works <https://burnham-highbridge-tc.gov.uk/wp-content/uploads/2021/01/Burnham-TC-New-Esplanade-Play-Area-Contract-Requirements-Schedule-of-Client-Specification.pdf>

12. We believe that a DO NOTHING option should have been presented for the location in question.

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Appendix 5 includes the survey titled, Burnham Evolution - Revitalising our seaside town. Page 98 includes the survey question:

There is a large tarmac area on the South Esplanade. Please tick which of the following you would you like to see there: 1) Children's play area 2) Water feature 3) Raised flower beds 4) Nothing 5) Other (please specify)

Page 96 of the appendices includes results on the question of future use of the area. It shows that 104 responses favoured a play area at this site, with 12 responses favouring to do nothing with the site.

13. What byelaws apply to the site in question that prohibit change of use?

The town council does not own the land and does not hold or administer detail of any byelaws that apply. Sedgemoor District Council is the responsible body and holds the information, which can be accessed here:

<https://www.sedgemoor.gov.uk/1646>

Additional information

The council is aware that the site in question is subject to restrictive covenant dating from the 1920s. The council does not possess the covenant. On advice, it is the council's belief that the relevant applicable covenants state:

'That no building of any obnoxious character shall at any time be erected on the property...which would substantially diminish or interfere with the free and unrestricted view of the Vendor from any portion of his adjoining or neighbouring land or from any building or buildings to be erected by the Vendor thereon' and

'No portion of the property...shall be used for any trade business pursuit or occupation of any purpose which shall or may be or grow to be in any way a nuisance to the Vendor his heirs or assigns'