

Cabinet Members for Health & Wellbeing and Procurement, Assets & Shared Services

Agenda

Date: Monday, 17th January, 2011
Time: 10.00 am
Venue: The Capesthorne Room - Town Hall, Macclesfield SK10 1DX

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests in any item on the agenda

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a period of 10 minutes is allocated for members of the public to address the meeting on any matter relevant to the work of the meeting. Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

Contact: Paul Mountford, Democratic Services
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4. **Cheshire East Rights of Way Improvement Plan 2011-2026** (Pages 1 - 2)

To consider and approve the Cheshire East Rights of Way Improvement Plan 2011-2026.

5. **Appropriation of Land for Highway Purposes - Lyceum Square, Crewe** (Pages 3 - 10)

To seek approval of the appropriation of Council land from public car park/market to highway and for that land to be dedicated as publicly maintainable highway.

6. **Disposal of land at Brook Street, Crewe** (Pages 11 - 14)

To consider the proposed disposal of two plots of land at Brook Street, Crewe.

7. **Exclusion of the Press and Public**

The reports relating to the remaining items on the agenda have been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matters may be determined with the press and public excluded.

The Committee may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

PART 2 – MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT

8. **Disposal of Surplus Assets** (Pages 15 - 38)

To consider the freehold disposal on the open market of a number of surplus properties.

9. **Site Issues - Lease of Land to Goostrey Parish Council at Goostrey Community Primary School, Main Road, Goostrey** (Pages 39 - 44)

To consider the granting of a 99 year ground lease to Goostrey Parish Council at Goostrey Community Primary School, Goostrey, to erect a new building for the Goostrey Young People's Project.

10. **Proposed Disposal of Land to the Rear of 22/24 Princess Street, Knutsford** (Pages 45 - 50)

To consider a request to acquire land to the rear of 22/24 Princess Street, Knutsford.

11. **Alsager School - Disposal of Land** (Pages 51 - 56)

To consider the proposed return and sale of land at Alsager School.

12. **Redroofs, Brook Lane, Alderley Edge** (Pages 57 - 64)

To consider a report on the disposal of a property known as Redroofs, Alderley Edge.

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CHESHIRE EAST COUNCIL

Cabinet Member for Health and Wellbeing

Date of Meeting: 17th January 2011
Report of: Greenspaces Manager
Subject/Title: Cheshire East Rights of Way Improvement Plan 2011-2026
Portfolio Holder: Councillor Andrew Knowles

1.0 Report Summary

- 1.1 This report presents the Cheshire East Rights of Way Improvement Plan 2011-2026. A full copy of the Improvement Plan will be available at the meeting and may also be viewed as a background document attached to the online version of the agenda.

2.0 Recommendation

- 2.1 That the Cheshire East Rights of Way Improvement Plan 2011-2026 be approved.

3.0 Reasons for Recommendation

- 3.1 On 4th October 2010, the Cabinet Member approved the Draft Cheshire East Rights of Way Improvement Plan for public consultation. This public consultation has now been conducted and amendments made accordingly.

4.0 Wards Affected

- 4.1 All Wards.

5.0 Local Ward Members

- 5.1 All Members.

6.0 Policy Implications including - Climate change/Health - Health

- 6.1 The development of the Rights of Way Improvement Plan (ROWIP) is aligned with the health and wellbeing objectives and priorities of the Council as stated in the Corporate Plan (2.1.1 Encouraging healthier lifestyles), the Local Area Agreement (National Indicator 8 Adult participation in sport and active recreation) and the Health and Wellbeing Service commitment to the Change4Life initiative.

- 6.2 In addition, the ROWIP, as an integrated part of the Local Transport Plan, will be set within the context of the Local Area Agreement indicators concerning air quality and CO₂ emissions.

7.0 Financial Implications

- 7.1 The ROWIP strategy document contains the policies and initiatives of the relevant sections of the Local Transport Plan 3 (LTP3). The strategy sets out what the Council will aim to do during the period 2011-2026, although no financial commitment is made. Funding sources, which will include external grants, will be identified through the implementation plans for the LTP/ROWIP.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 It is a statutory duty under section 60 of the Countryside and Rights of Way Act 2000 for every local highway authority to prepare and publish a Rights of Way Improvement Plan.
- 8.2 Non-compliance with the requirement for the full integration of the ROWIP with the LTP3 could result in criticism from statutory monitoring bodies and agencies.

9.0 Risk Management

- 9.1 No risks identified.

10.0 Background and Options

- 10.1 The current ROWIP covering Cheshire East expires in March 2011. Therefore a new ROWIP is required.
- 10.2 It is a requirement for the ROWIP to be integrated into the LTP3. Therefore, whilst the background chapters 1-4 are specific to the ROWIP, the content of chapter 5 is common across the 2 documents; within this chapter the policies and initiatives of the strategy are laid out.
- 10.3 Public consultation has included the prescribed list of consultees given in Section 61(1) of the Countryside and Rights of Way Act 2000.
- 10.4 On 13th December 2010 the Public Rights of Way Committee recommended to the Cabinet Member that the document be approved.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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CHESHIRE EAST COUNCIL

Cabinet Member for Procurement, Assets and Shared Services

| | |
|--------------------------|--|
| Date of Meeting: | 17 th January 2011 |
| Joint Report of: | Assets Manager and Strategic Director (Places) |
| Subject/Title: | Appropriation of Land for Highway Purposes - Lyceum Square, Crewe |
| Portfolio Holder: | Councillor Peter Mason |

1.0 Report Summary

- 1.1 To seek approval of the appropriation of Council land from public car park/market to highway and for that land to be dedicated as publicly maintainable highway.

2.0 Recommendation

- 2.1 In accordance with Section 122 of the Local Government Act 1972, to declare that the land shown coloured pink on the plan at Appendix A is no longer required for its present purposes, to give public notice of Cheshire East Borough Council's intention to appropriate the said land to highway purposes, and in the event of no objections being received within the date specified in the public notice (or if received they are withdrawn), upon the day immediately following the date specified in the public notice to appropriate the said land to highway purposes and the said land shall be publicly maintainable highway.

3.0 Reasons for Recommendations

- 3.1 The decision is being sought because of the redevelopment of Lyceum Square, Crewe. The design of the square has produced a slightly revised highway layout and thus the appropriation of Council land to highway purposes is required.

4.0 Wards Affected

- 4.1 Crewe East

5.0 Local Ward Members

- 5.1 Cllr Steve Conquest, Cllr Margaret Martin & Cllr Chris Thorley.

**6.0 Policy Implications including - Climate change
- Health**

6.1 None

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 None.

8.0 Financial Implications 2010/11 and beyond (Authorised by the Borough Treasurer)

8.1 Any land in the ownership of the Council is an asset and the Council is obligated to protect its assets and achieve best value in any transactions or dealings affecting such land.

8.2 The land to be appropriated has been valued at £15,750. Whilst the land valuation could represent a financial loss to the Council in its private landowning capacity, there is a gain to the Council as highway authority through an improved layout for Lyceum Square, and to the Council generally, by making the Square more attractive to pedestrians and shoppers. Approximately 10 car parking spaces will be removed from Lyceum Square at an approximate loss of £5,000 per year. The redevelopment is being delivered with £1.1M European funding. This is considered to be sufficient consideration to recompense the Council for the 'loss' as private landowner.

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 Local authorities are authorised under Section 122 of the Local Government Act 1972 to appropriate land to any purpose for which they are authorised to acquire land by agreement and which is no longer required for the purpose for which it was used immediately prior to the appropriation. It should be noted that appropriation under s122 remains subject to the rights of other persons in, over, or in respect of the land concerned, therefore, any decision will not extinguish any third party rights over the land in question.

9.2 Case law has confirmed that the decision about whether land is no longer required for a particular purpose is one for the local authority acting in good faith, however, if the land is open space (as referred to in 9.5 below) the Council is required by Section 122(2A) to consider any objections to the Council's view on the question of whether the land is required for its present purposes and not just the issue of whether the land not required should be appropriated to a new purpose. If any objections are received (and not withdrawn), then the matter will be returned to the decision maker for consideration of those objections. It is acceptable to make a decision regarding the intention to appropriate in the absence of objections, but this should not be treated as foreclosing any further consideration of the matter if objections are received.

- 9.3 An appropriation from public car park/market to highway purposes, namely publicly maintainable highway, means that once it becomes highway it remains as highway until it is stopped-up (highway status removed) on the order of the magistrates' court or the Secretary of State.
- 9.4 When dedicating land the legal title remains with the landowner, but the surface becomes highway and therefore it carries a different status to private land. Consequently, the Council remains the landowner but its ability to use the land is restricted (in its landowning capacity) and the public are granted the right to pass and repass over the land. Thus, rather than the public being permitted by the Council to enter and use the land, they can use it as of right and the highway authority are under a duty to protect and maintain the highway.
- 9.5 As mentioned above, prior to any appropriation, if the land in question is open space, sub-section 122(2A) requires the Council to provide public notice of its intention to appropriate the land in a local newspaper for two consecutive weeks. Thus, it is necessary to examine whether the land is considered to be 'open space'. The definition of 'open space' within the legislation, and as expanded upon by the decisions of the courts, covers any form of recreational activity whether officially permitted or not. Whilst it is not clear that this land has had any recreational use, it has held weekly markets and associated uses on certain days. It is also possible that it has been used by the public unofficially at other times. Thus, it is considered advisable to give public notice of the intention to appropriate.
- 9.6 A further legislative requirement which may be relevant is Section 123 of the Local Government Act 1972, which states that a local authority is entitled to dispose of land held by it, however, without the consent of the Secretary of State, it cannot dispose of land for a consideration less than the best that can reasonably be obtained. There is no definition of what constitutes a 'disposal', and it is not clear whether highway dedication would actually amount to a 'disposal' for the purposes of this Section. It is unlikely that it would, but in the event that it does, what constitutes the best consideration would need to be addressed as a part of the decision. Nevertheless, in the event that the appropriation and dedication is not considered to be a 'disposal', the Council has a general fiduciary duty to protect its assets and obtain best value. It is for that reason that the land value is also being addressed in this Report. 'Consideration' is confined to those elements in the transaction which are of commercial or monetary value.
- 9.7 A further point to be considered is the requirement in section 123(2A) of the Local Government Act 1972 that a council may not dispose of any land consisting or forming part of an open space unless before disposing of it, they advertise of their intention to do so in a newspaper. This is a similar requirement to that stated in Section 122(2A) as mentioned above. Thus, whilst again there is a query as to whether this would amount to a 'disposal' for the purposes of Section 123(2A), the Council will be meeting this requirement in any event by giving public notice under Section 122(2A).

- 9.8 It should be noted that any decision to appropriate, as with any decision by the Council, is subject to a claim for judicial review which would have to be made promptly and in any event within 3 months.

10.0 Risk Management

- 10.1 If the land is not appropriated to highways purposes, the designed road would remain partially public highway and partially private land (in the ownership of the Council). This makes it more difficult to achieve traffic regulation on Heath Road.

11.0 Background and Options

- 11.1 On 30 March 2009 the former Crewe and Nantwich Borough Council granted planning permission for the redevelopment of Lyceum Square, Crewe. The redevelopment has created a vibrant, state-of-the-art pedestrian space for Crewe town centre, and is home to an iconic café and spacious, modern public lavatories. The square has been repaved in high quality, granite materials creating a robust, flexible space for parking, market use and events. It also features granite seating areas; new bins; cycle stands and modern lighting. The new layout is considered to be a significant improvement upon the previous one. The £1.7M project is being carried out with £1.1M funding from the North West Development Agency (NWDA), with the Borough Council providing the remainder.
- 11.2 Appropriation of land to highway purposes is a necessary part of the redevelopment and ideally it would have been undertaken earlier in the process thus, this Report seeks a decision so that the necessary procedures are now taken account of and dealt with. The land to be appropriated is shown coloured pink on the plan attached at Appendix A. These areas of land are no longer required for their present purpose as all traders have been accommodated on the redeveloped square in conjunction with existing facilities. The land to be appropriated to highway will enable unobstructed vehicular access through the area (subject to any relevant traffic regulation restrictions).
- 11.3 These two areas of Council land have been valued by the Assets Manager as having a total value of £15,750. Given this valuation and in the event it is considered to be a 'disposal', it is necessary for the Council to consider the best consideration that can reasonably be obtained. In this particular case, the Council is considered to be benefitting by the improvements proposed to Lyceum Square and the added benefits it will bring commercially to the town centre, making it more attractive to shoppers and visitors and enhancing the town centre. The Council received £1.1M NWDA funding to deliver the redevelopment, without which the redevelopment would not have been delivered. Thus, it is considered that the monetary and commercial benefits to the Town Centre of the redevelopment far exceed the 'loss' to the Council, and thus, if the appropriation is subsequently claimed to be a 'disposal', it is considered to be the best consideration that can reasonably be obtained.

- 11.4 Options: The Council could refuse to appropriate its land to highway purposes, which would mean that it would be more difficult to deliver the traffic regulation order in respect of Heath Street.
- 11.5 In summary, the improvements to the whole Square, together with the NWDA funding to achieve the delivery, are considered to provide benefits to the Council in excess of the 'loss' to the Council as private landowner.
- 11.6 It is recommended, therefore, that the decision maker agrees to the giving of public notice of the intended appropriation of the land from parking/market to highway and that the land will become publicly maintainable highway. In the event that no objections are received by the date stated in the notice as being the closing date for objections, (or where received, they are withdrawn), the land will be appropriated. If objections are received, the matter will return to the decision maker for consideration of those objections and a decision made whether to appropriate or not in light of those objections.

12.0 Overview of Year One and Term One Issues

12.1 None

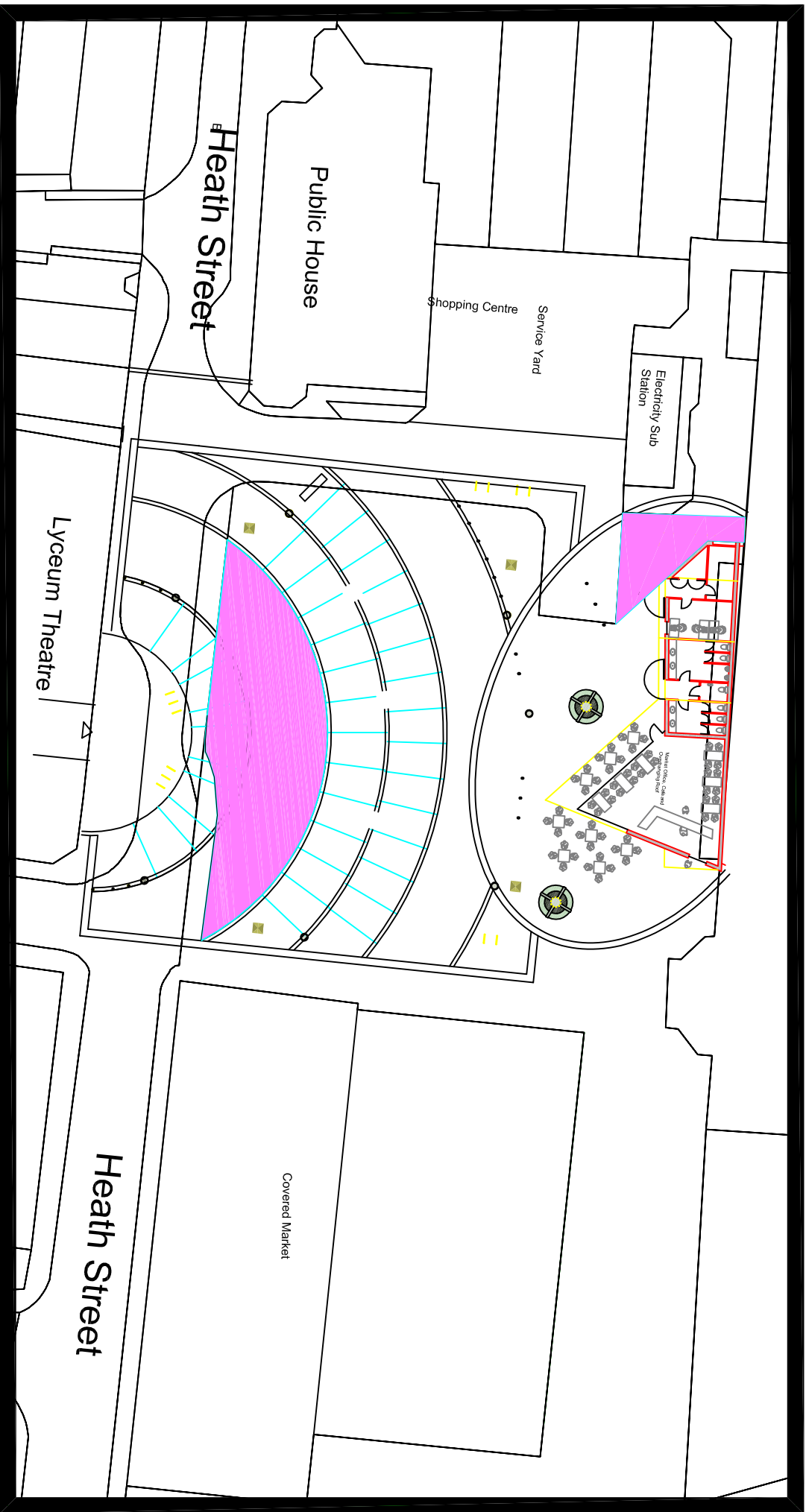
13.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer.

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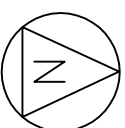
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KEY



AREA OF MARKET LAND REQUIRED



Project:

LYCEUM MARKET

MARKET LAND APPROPRIATION PLAN

Drawn by: ADC

Checked by: KM

Date: OCT 2010

Scale at A4: NTS

Drawing No:

Phase/Rev:

PLAN C



Area Highways Office - CREWE

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CHESHIRE EAST COUNCIL

Cabinet Member for Procurement, Assets and Shared Services

| | |
|--------------------------|---|
| Date of Meeting: | 17 th January 2011 |
| Report of: | Assets Manager |
| Subject/Title: | Disposal of land at Brook Street, Crewe |
| Portfolio Holder: | Councillor Peter Mason |

1.0 Report Summary

- 1.1 The purpose of this report is to consider the proposed disposal of two plots of land at Brook Street, Crewe. Both Plots are shown on the plan for identification purposes (plan to follow).

2.0 Recommendation

- 2.1 To approve the sale of land at Brook Street, Crewe to Alchemy Dental Practice on terms and conditions to be determined by the Assets Manager and the Borough Solicitor.

3.0 Reasons for Recommendations

- 3.1 Both plots are considered as surplus to the operational requirements of the Council. The disposal of both plots would help combat antisocial behaviour and fly tipping currently occurring on the land. Alchemy Dental Practice has recently secured freehold ownership of the adjacent land and wish to acquire the land with a view to redevelop the whole site to provide secure car parking. The proposal includes resurfacing, the installation of floodlights and security cameras.

4.0 Wards Affected

- 4.1 Crewe South

5.0 Local Ward Members

- 5.1 Cllr David Cannon
Cllr Dorothy Flude
Cllr Betty Howell

6.0 Policy Implications

- 6.1 Climate change - Health

7.0 Financial Implications for Transition Costs (Authorised by the Borough Treasurer)

7.1 Not applicable.

8.0 Financial Implications 2009/10 and beyond (Authorised by the Borough Treasurer)

8.1 The sale of the land will result in a Capital Receipt for Cheshire East Council.

9.0 Legal Implications (Authorised by the Borough Solicitor)

9.1 S.123 of the Local Government Act 1972 provides that a council may dispose of an interest in land provided that it is for the best consideration reasonably obtainable.. In disposing to an individual by way of negotiation rather than open market testing the Council will need to demonstrate that it has done so.

10.0 Risk Management

10.1 The disposal of both plots will improve the area generally and will eliminate any future Cheshire East Borough Council liability.

11.0 Background and Options

11.1 Plot (1) is within the ownership of Cheshire East Borough Council and is subject to unauthorised car parking, fly tipping and antisocial behaviour. The land is shown on the attached plan for identification purposes and is approximately 78m2 in size. Crewe & Nantwich Borough Council previously declared the land surplus and had received offers of interest from Alchemy Dental Practice and also PAD Developments in 2006. At that time, PAD Developments benefited from Option Agreements on three adjacent plots (formerly numbers 29, 31 and 33 Brook Street). These are shown on the attached plan for identification purposes.

Given the advantageous position enjoyed by PAD Developments at that time it was decided to progress negotiations with the developer. The developer then submitted a planning application for a residential scheme. The developer later withdrew from the land transaction due to the expiration of the Option Agreements. A decline in demand for residential properties also affected the developers ability to proceed with the acquisition at that time.

Alchemy Dental Practice is freehold owner of 199 to 205 Edleston Road and in 2009 they acquired freehold ownership of the adjacent plots formerly subject to Option Agreements in favour of PAD Developments. Alchemy Dental Practice now wishes to purchase plot (1) as they plan to incorporate the land within the car park redevelopment planned for the adjacent land. A meeting has recently taken place with the owner of number 25 Brook Street regarding the sale of plot (1) in which they were given the opportunity to declare an interest in acquiring the land. The outcome of that meeting was that they were not interested in acquiring the land and they were supportive of the planned disposal in favour of

Alchemy Dental Practice. It is considered that land would have limited appeal and value to the open market and thus a sale to Alchemy is recommended.

Alchemy Dental Practice also wish to acquire plot (2) which is currently accessed via Edleston Road Car Park and is within the ownership of Cheshire East Borough Council. The land is shown on the attached plan for identification purposes and is approximately 77m² in size. This area of land is not subject to a Car Parking Order therefore generates no income for the Borough Council. The Car Park Management Service see no benefit in incorporating the land within the adjacent public car park and thus fully support the disposal of the land in a manner in which would alleviate the ongoing problems of antisocial behaviour and fly tipping. Alchemy will incorporate the plot within their site and do not require the grant of any access rights over the adjacent public car park to derive benefit from the use of the land. It is thus considered appropriate to sell the land to Alchemy rather than offer the land for sale on the open market with the grant of associated access rights which would unnecessarily encumber the public car park.

The background papers relating to this report can be inspected by contacting the report writer:

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