

## REPORT TO: PORTFOLIO HOLDER

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**Date of Meeting:** 23<sup>rd</sup> January 2014  
**Report of:** Director of Economic Growth and Prosperity  
**Subject/Title:** Acquisition of Mode Cottage, Mobberley  
**Portfolio Holder:** Cllr Peter Raynes

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### 1.0 Report Summary

- 1.1 To consider the acquisition of a residential dwelling adjacent to Mobberley Church of England Primary School, known as Mode Cottage, Church Lane, Mobberley, WA16 7RA for a consideration of £470,000 (Four Hundred and Seventy Thousand Pounds).
- 1.2 The property was valued on 9<sup>th</sup> July 2013 at the sum of £400,000 however despite protracted negotiations the seller will not consider offers less than £470,000. As acquisition of the property by private treaty is considered to be the only viable way to achieve early expansion of the school it is recommended that the property be purchased at the asking price.

### 2.0 Decision Requested

- 2.1 To proceed with the purchase of Mode Cottage, for the sum of £470,000 (Four Hundred and Seventy Thousand Pounds) and to enter into a Deed of Release/Modification with the Chester Diocesan Board of Finance in respect of the covenants affecting the use of the land.

### 3.0 Reasons for Recommendations

- 3.1 Based on the October 2012 School Census, pupil forecasts for the Knutsford Planning Area indicate that there will be a significant shortfall of places across the schools of 166 places by 2018. In order to ensure that there are sufficient places for families seeking places at local schools, additional places are needed in this area from 2014 when the number of unused places is forecast to fall to -12 places across all schools and all year groups.
- 3.2 Forecasts for Mobberley CE Primary indicate that there will be insufficient places at the school with more children on roll than places available. This trend is forecast to continue reaching a shortfall of 70 pupil places by 2018 based on current admission patterns.
- 3.3 As a consequence Mobberley C. of E. Primary School is in urgent need of extending and remodelling to provide two additional classrooms together with associated storage, circulation and cloak areas. This is necessary as the school has been identified for expansion to 210 places

with an increased admission number from 20 to 30 pupils. This proposal is subject to Portfolio Holder permission to undertake statutory consultation on the increase.

- 3.4 The acquisition of Mode Cottage would provide a site sufficient to facilitate this expansion and would also create an independent access to the school which is needed to secure the future of the site.
- 3.5 Furthermore Cheshire East Council has a statutory duty to commission sufficient school places for children resident in its area and this acquisition will support the Local Authority in complying with this duty. The project will also meet the Government's commitment of providing a diverse school system characterised by improving standards and increased choice for parents and pupils.
- 3.6 A business case was submitted (EMB and Cabinet) for the creation of the scheme in Oct 2012 outlining the proposal to purchase land to extend the school. The proposal to purchase Mode Cottage was communicated to EMB via a "change request" and this was agreed by the board on 21 June 2013.
- 3.7 Due to the restricted nature of the school site, the original proposal (for which an allocation was made in the 2012-13 Children Families and Adults Capital Programme) was to construct a two classroom extension with associated toilets and circulation onto the existing rear playground of the school, and to negotiate with the adjacent land-owner for acquisition of 615m<sup>2</sup> of farmland which would become the replacement playground.
- 3.8 However, following protracted negotiations with the land-owner an agreement could not be reached due to his concerns over increased traffic and access for construction vehicles over his land. (Access to the school can only currently be achieved through the car park and driveway which the landowner leases to the school.) Therefore the option of acquiring Mode Cottage is considered the best alternative option.

#### **4.0 Wards Affected**

- 4.1 Mobberley

#### **5.0 Local Ward Members**

- 5.1 Cllr Jamie Macrae

#### **6.0 Policy Implications including**

- 6.1 The purchase is in accordance with Children's Services Capital Strategy.

## **7.0 Financial Implications**

- 7.1 The total approved budget for Mobberely CE Primary School was originally allocated to the project from the 2012-13 Children and Families Capital Programme. Funding required over and above this allocation, will be funded from the Basic Need Grant funding, approval for which will be sought through the Council's Financial Approval Process.
- 7.2 All Capital projects greater than £250,000 are subject to Cheshire East Council's Capital Programme approval and monitoring process

## **8.0 Legal Implications (Authorised by the Borough Solicitor)**

- 8.1 The Council owes a fiduciary duty to its council tax payers and must have regard to that duty in considering an acquisition of a property at a price in excess of its market value and be able to point to the justification for the acquisition.

## **9.0 Risk Management**

- 9.1 The Mode Cottage site is encumbered by Restrictive Covenants limiting the use of the site to a single private dwelling house. The Chester Diocesan Board of Finance have the benefit of one of these covenants and have confirmed in open correspondence that they will vary this restrictive covenant for no financial consideration as the indented use is educational and to the benefit of the local school but the release is only for educational use so should that use change in the future the covenants will remain in force. The Chester Diocesan Board of Finance also has the benefit of a restriction noted against the title to the property which protects overage payments triggered upon the grant of any planning permission before 11<sup>th</sup> January 2036. The risk is that in the event that the school is ever relocated or closed for any reason and the Council wish to either sell or use the land for an alternative purpose there may still be issues with the covenants that restrict use to that of a private single dwelling house or educational use and therefore the Council would need to make the overage payments and negotiate with the Diocese in order to remove the covenants and allow the land to be sold on and developed.
- 9.2 The second Restrictive Covenant dates back to the 1930's however it is not clear which land has the benefit of the covenant as the restriction does not specifically refer to the benefiting land that belonged to the vendor at the time of the conveyance. This covenant may not be enforceable but to mitigate the risk the Council has sought quotes for defective title indemnity insurance and this will be put into place prior to completion in order to protect the Council's position should any party seek to enforce this covenant in the future against the Council.

## **10. Access to Information**

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

Name: Joanne Jones  
Designation: Property Services Manager  
Tel No: 01270 686127  
Email: [joanne.m.jones@cheshireeast.gov.uk](mailto:joanne.m.jones@cheshireeast.gov.uk)