

CHESHIRE EAST COUNCIL

Portfolio Holder for Finance

Date of Meeting:	8th December 2014
Report of :	County Land Agent
Subject/Title:	Batherton Farms Estate – Lease Of Land To Stapeley Broad Lane C of E Primary School
Portfolio Holder:	Councillor P Raynes

1.0 Report Summary

- 1.1 The report considers the terms for the use of 1.92 acres of land shown shaded red on the attached Plan A by Stapeley Broad Lane Primary School (shaded blue) by long lease.

2.0 Recommendations

- 2.1 Stapeley Broad Lane C of E Primary School be granted a long lease on the terms mirroring the length of term for the existing lease for the school site and restricting the use of the land to car park and additional play area (subject to planning consent) for a lease premium of £25,000 and subject to an annual peppercorn rent.

3.0 Reasons for Recommendations

- 3.1 The proposed terms represent the best achievable in order to assist the local school in bringing forward plans to create a car park, designed to improve access and parking for both visitors and pupils to the school.

4.0 Wards Affected

- 4.1 Nantwich South & Stapeley

5.0 Local Ward Members

- 5.1 Councillor P Groves
Councillor A Martin

6.0 Policy Implications

- 6.1 None

7.0 Implications for Rural Communities

- 7.1 The school serves and is located in a rural area.

8.0 Financial Implications

- 8.1 The proposal seeks approval for the grant of a long lease for a premium (£25,000). The unrestricted value is approximately £34,000 and hence the proposed premium represents an undervalue of approximately £9,000.
- 8.2 The farms estate revenue budget will sustain a loss of approx £228 per annum.

9.0 Legal Implications

- 9.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers, however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
- 9.2 The Council has the power to grant a lease of the land pursuant to s123 of The Local Government Act 1972 subject to any disposal for 7 years or more being at the best consideration that can reasonably be obtained.
- 9.3 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, as in this case.
- 9.4 The Council has a fiduciary duty at all times to the taxpayers and must fulfil this duty in a way which is accountable to local people.
- 9.5 All disposals must comply with the European Commission's State aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State aid rules, failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the occupier receives less than approximately £155,000 (200,000 Euros) in state aid over a 3 year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).

10.0 Risk Management

- 10.1 The 125 year lease will contain a covenant which restricts the use of the land to car parking and additional play space limited to and ancillary to the use of Stapeley Broad Lane School.

11.0 Background and Options

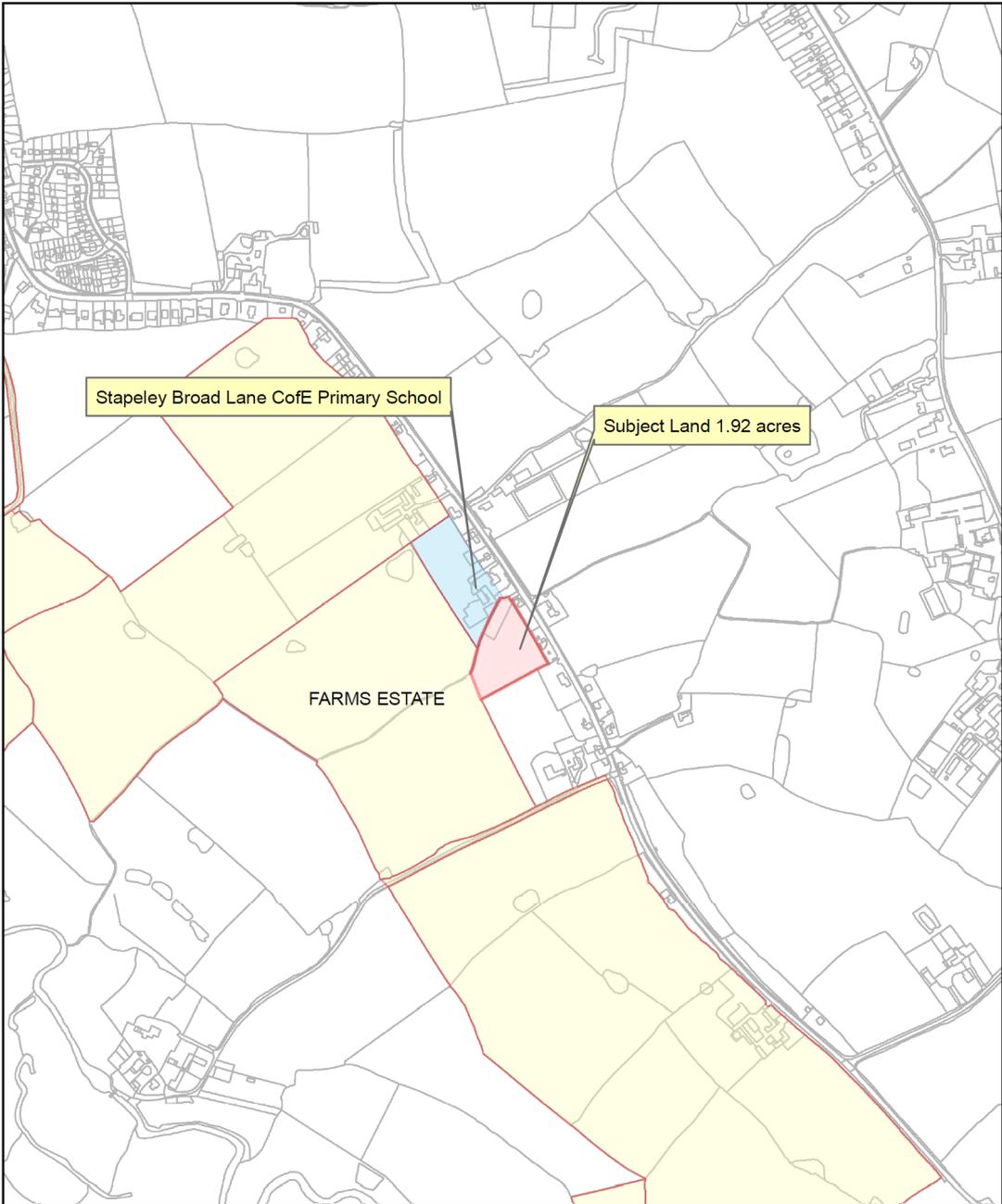
- 11.1 In 2010 the Cabinet member for procurement, assets and shared services authorised that land forming part of the Batherton Farms Estate, Holding 8, comprising an area up to 1.92 acres or thereabouts be declared surplus to the requirements of the Council, only however to facilitate a sale for the purposes of Stapeley Broad Lane C of E Primary school. As an academy the school has a 125 year lease of the property from the Council.
- 11.2 The land has continued to be farmed within an agricultural tenancy.

- 11.3 A proposal for the creation of an off road car park was developed in conjunction with the Diocese by the school in response to concerns for the safety of staff, pupils and visitors particularly at drop off and picking up time on the roadside when the road becomes severely congested
- 11.4 The school have subsequently explored design options, obtained planning consent and with the assistance of the Diocese (sale of former school house), identified funding for the proposal.
- 11.5 The school has provided details identifying a shortfall in funding barring the outright acquisition of the property at full value and accordingly terms for a lease have been considered and offered £25,000 in the context of a valuation of the land without restrictions as to use, in the sum of £34,000.
- 11.6 The proposal is considered to meet the requirements of the general disposal consent in the promotion or improvement of social well-being and accordingly the recommendation therefore seeks approval for the proposal to grant a lease of the subject land, mirroring the length of term for the existing lease for the site of the school restricting the use of the land to car park and additional play area (subject to planning consent) for a lease premium of £25,000. Consideration being given for the social and welfare implications of safety of children and for the use by children for recreation being a stated purpose.

12.0 **Access to Information**

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

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