

## CHESHIRE EAST COUNCIL

### CABINET MEMBER FOR REGENERATION AND ASSETS WITH THE CABINET MEMBER FOR COMMUNITIES

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**Report of:** Executive Director Economic Growth and Prosperity

**Subject/Title:** Memorial Stone at Land off Salinae Centre, Middlewich

**Date of Meeting:** 7 July 2015

**Portfolio Holder:** Councillors Don Stockton and Les Gillbert

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#### 1.0 Report Summary

- 1.1 To consider a request from Middlewich Town Council to transfer a parcel of Public Open Space land adjacent to the Salinae Centre, Middlewich, Cheshire CW10 9DG (shown edged red on the attached plan) by way of 125 year lease as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process.

#### 2.0 Decision Requested

- 2.1 Subject to the response to the public space advertisements referred to in 8.3, to transfer by way of 125 year lease land adjacent to the Salinae Centre, Middlewich, Cheshire CW10 9DG (shown edged red on the attached plan) to Middlewich Town Council on the terms stated in 3.3 and other terms to be agreed by the Property Services Manager.

#### 3.0 Reasons for Recommendations

- 3.1 On 5<sup>th</sup> September 2011 it was decided by the Cabinet that a number of properties (Appendix A properties) should be transferred to the Town or Parish Council for the area in which the properties are located as a first phase of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process and that certain other properties (Appendix B properties) be considered for transfer with the decisions as to whether to sell being delegated to the relevant portfolio holder(s).
- 3.2 It was reported to Cabinet that every transfer or lease would be on the following terms namely that:
- The transfer/ lease would protect community use of the asset.
  - The transfer/ lease would take place for a nominal value (£1) and the Town Council will be wholly responsible for the service and the asset save insofar as the Council has residual legal responsibilities under contracts or legislative provisions.
  - If allowing change of use, the agreement would secure an overage payment for the Council if there is a future planning permission which enhances the value of the asset or the Town Council sells the asset within an 15 year period with increase in value/ proceeds of sale returning to Cheshire East on a reducing sliding scale.

Cabinet resolved that delegated authority be given to identified officers to finalise standard terms for all the transfers. Standard heads of terms were subsequently approved by the relevant officers and the Portfolio Holder for Places and Strategic Capacity.

- 3.3 This land was neither an Appendix A nor an Appendix B property but has since been identified as an appropriate asset to be devolved to the Town Council. The 125 year lease to Middlewich Town Council will be based upon the standard heads of terms and, as it will prohibit a change of use, no overage agreement will be required.

#### **4.0 Wards Affected**

- 4.1 Middlewich

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

- 5.1 Cllr Bernice Walmsley  
Cllr Simon Mcgrory  
Cllr Michael Parsons

#### **6.0 Policy Implications including - Carbon reduction - Health**

- 6.1 The 125 year lease is in line with the Council's policy of transfer and devolution of assets to Town and Parish Councils for a nominal value.

#### **7.0 Financial Implications**

- 7.1 The existing use has an unrestricted value which is less than £500 and therefore the Council proposes to forego the capital receipt in this instance to support the Erection of this Memorial Stone.
- 7.2 The transfer to Middlewich Town Council would have a small financial impact on CEC budget in 15-16, in respect of operational cost savings relating to grounds maintenance.

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

- 8.1 The Council has no power to dispose of property by a freehold transfer unless it secures the best consideration reasonably obtainable or it has Secretary of State consent. Under the Local Government Act 1972 General Disposal Consent (England) 2003 the Secretary of State gave general consent to disposals for less than best consideration if:

- (a) The disposing authority considers that the purpose for which the land is to be disposed of is likely to contribute to the achievement of any one or more of the following objects of the whole or any part of its area, or all or any persons resident or present in its area:

- a. The promotion or improvement of economic well-being;
- b. The promotion or improvement of social well-being;
- c. The promotion or improvement of environmental well-being;

(b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2m; and

(c) All other conditions and requirements of the Consent are satisfied.

8.2 In transferring assets the Council must behave prudently to fulfil its fiduciary duty

8.3 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).

As there is open space within the land outlined red on the attached plan, then it will be necessary to advertise the potential disposal of the Garden under the provision of the Local Government Act. The adverts have been placed in the press and the period for representations to be made expired on the 3<sup>rd</sup> June. The Council received no objections to the proposal to dispose the Public Open Space land.

## **9.0 Risk Management**

9.1 The 125 year lease will prohibit a change of use of the Memorial Stone.

## **10.0 Background Information**

10.1 The purpose of this request is to enable Middlewich Town Council to erect a Memorial Stone at the field adjacent to Salinae Centre, Middlewich that commemorates people who lived and worked on the canals and the salt works of Middlewich.

10.2 The extent of the land required by Middlewich Town Council is shown outlined in red on the attached plan for identification purposes. The Client Service (Environment) has confirmed that the land is surplus to operational requirements, that the area has been omitted from the 'Open Space Survey 2012 and they support the proposal at this location. In addition to this they have confirmed that the site is dry and the Folk and Boat activities are usually around the periphery of the site so the proposed sculpture in the middle will not interfere with these.

- 10.3 This is essentially a Cheshire West and Chester project exploring the salt route from Middlewich to Frodsham and therefore at Middlewich, it is the sole representative in Cheshire East. The aim is to promote the various sites along the route, use interpretation, workshops, and educational programmes to link the salt route together.
- 10.4 Middlewich Town Council would like to develop the work with the boating and salt industry theme of Wych House Lane and a meeting has been held over potential sites and the Salinae Field off Wych House Lane has been identified as a perfect place to erect a simple stone sculpture that commemorates people who worked there and the boaters who carried cargo to the ports sometimes in hazardous conditions.
- 10.5 The height will be just less than 2 metres at 6ft 6 inches; the width depends on the quarry but for guidance Middlewich Town Council is looking at between 3ft – 5ft depending on the quarry and constraints of planning regulations. The stone will have foundations of around 3ft, again depending on the height of the stone.

#### **11.0 Access to Information**

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

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