

## CHESHIRE EAST COUNCIL

### REPORT TO PORTFOLIO HOLDER – REGENERATION & ASSETS

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

**Subject/Title:** Land at Weston Estate, Macclesfield.

**Date of Meeting:** 15 December 2015

**Portfolio Holder:** REGENERATION & ASSETS

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#### **1.0 Report Summary**

- 1.1 This Report seeks the approval to dispose of Cheshire East owned land on Weston Estate, Macclesfield to a Named Party, Cheshire Peaks & Plains Housing Trust (“Peaks and Plains”), for £1 (One Pound), in order to enable the provision of thirty-one affordable housing units.

#### **2.0 Decision Requested**

- 2.1 To advertise the Council’s intention to dispose of the six parcels of land which provide Public Open Space and to follow the statutory procedure in respect of the same.
- 2.2 To declare the land surplus to requirements and thereafter to consider any objections and/or representations which are made to the proposed disposals.
- 2.3 To proceed to dispose of the land to a Named Party, Peaks and Plains, for the provision of affordable housing. The disposal shall be in such terms and conditions as required by the Executive Director of Economic Growth and Prosperity in consultation with the Head of Legal Services and Monitoring Officer and the Head of Assets.

#### **3.0 Reasons for Recommendations**

- 3.1 There are very high levels of demand for affordable housing in Macclesfield. Peaks and Plains propose to combine the sites with adjacent land under its ownership and develop the combined sites as affordable housing.
- 3.2 Whilst the Council will not receive a receipt for the land, the development of thirty-one new affordable homes, will bring forward New Homes Bonus, including the affordable housing premium and additional council tax revenue.

#### **4.0 Wards Affected**

- 4.1 Macclesfield West & Ivy

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

- 5.1 Cllr A Harewood and Cllr N Mannion have been consulted and have no specific comments or objections.

## **6.0 Policy Implication**

- 6.1 Affordable Housing in the Borough is a very limited resource in comparison to owner occupation and privately rented properties. Demand significantly outstrips supply with approximately one thousand one hundred affordable rented properties becoming available each financial year compared to around seven thousand households registering with Cheshire Homechoice in order to access social housing.
- 6.2 Public service compensation granted to Social Housing undertakings carrying out services of general economic interest are exempted from the need to notify under the Commission Decision.

## **7.0 Financial Implications**

- 7.1 In disposing of the land CEC will relinquish its liabilities in relation to maintenance, potential third party insurance claims and will deliver thirty-one affordable rental dwellings.
- 7.2 The Council has taken independent advice which indicates that the proposed development is not viable without Peaks and Plains adjoining land. In addition, the advice indicates that the Council's costs of sale (if the land was offered to the open market) would likely to outweigh the capital receipts.
- 7.3 Therefore, the view is that the land has a nil or nominal net value for the Council.

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

- 8.1 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. However, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles. However, when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people. And have due consideration to the State Aid legislation.
- 8.2 The General Disposal Consent 2003 authorises the disposal of land for seven years or more at less than best consideration if the undervalue is two million pounds (£2,000,000), or less, if the undervalue is higher than two million pounds (£2,000,000), consent to the disposal is required from the Secretary of State. The value will be determined at the time of sale or lease. Authorities should clearly not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such action

- 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 £140,612.00 (as at 25/1115 rates) (€200,000) in state aid in total over a three year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition). This will have State Aid implications and it will be necessary to obtain a certificate of compliance and possibly an indemnity from Peaks and Plains.
- 8.4 As there are no specific disposal terms it is not possible to comment further at this stage. The disposal terms will be considered on their merits against this legal background to achieve the stated purpose in this report as and when negotiated.

## **9.0 Risk Management**

- 9.1 There are risks associated with this decision. Other parties may decide to challenge the Local Authority's decision to dispose of these sites without offering them on the open market for a consideration of One Pound (£1.00).

The Council needs to be careful not to set a precedent by agreeing to these requests. However, this particular project only applies to the Weston estate and relies on Peaks and Plains adjoining property required in order to unlock the development potential of the sites.

## **10.0 Background**

- 10.1 There is a high level of demand for affordable housing in Macclesfield, for example there are currently one thousand and sixty-six people on the Council's waiting list asking for accommodation in Macclesfield and of these one thousand and eighteen have specifically asked for housing on the Weston estate. In addition the Strategic Housing Market Assessment (SHMA), carried out in 2013 identified an annual need for 180 additional affordable homes in Macclesfield, per annum over a five year period
- 10.2 Peaks and Plains has produced proposals for the development of the sites in order to provide thirty-one affordable housing units in the area. Plans attached appendices 1,2,3,4,5 & 6).
- 10.3 The Council has taken independent advice which indicates that the proposed development is not viable without Peaks and Plains adjoining land. In addition, the advice indicates that the Council's costs of sale (if the land was offered to the open market) would likely to outweigh the capital receipts.

- 10.5 Peaks & Plains advised that due to the level of open market values on the Weston estate the project didn't stack up with any shared ownership units included. The rental income over the thirty year business plan makes the scheme viable compared to a one off capital receipt from a shared ownership sale.
- 10.4 Therefore, the view is that the land has a nil or nominal net value for the Council.
- 10.7 Should the disposal to Peaks and Plains, there are a number of additional benefits: -
- There are a number of initiatives that will be delivered as part of this project. In partnership with Macclesfield College, Peaks and Plains contractors intend to provide training opportunities for their brick laying, joinery and electrical students. This will be both on site and during the production of the timber frames. In addition the contractor has agreed to provide full time employment to at least one ex-offender who is currently unemployed. They have acknowledged and accepted the additional responsibilities this will generate and are prepared to fully embrace the initiative.
  - Links with local schools will also be forged, starting with a community event to provide artwork for the site hoarding. The nature of the project means that Peaks and Plains can use continuity of work across the sites in one area to provide these opportunities that will benefit local people.

## **11.0 Access to Information**

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

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