

# CHESHIRE EAST COUNCIL

## Cabinet Member for Procurement, Assets and Shared Services

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**Date of Meeting:** 1<sup>st</sup> November 2010

**Report of:** Assets Manager

**Subject/Title:** Disposal of land off Sally Clarke's Lane, Wybunbury to  
Wybunbury Parish Council

**Portfolio Holder:** Councillor Peter Mason

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### 1.0 Report Summary

- 1.1 The purpose of this report is to consider the transfer the freehold interest in an area of former Highways land located off Sally Clarke's Lane, Wybunbury to Wybunbury Parish Council.

### 2.0 Recommendations

- 2.1 To approve the transfer of land located off Bridge Street, Wybunbury edged red on the attached plan to Wybunbury Parish Council on terms and conditions to be determined by the Borough Solicitor and Assets Manager.
- 2.2 To serve the requisite notice to terminate the current occupation of the garage located within the land in question.

### 3.0 Reasons for Recommendations

- 3.1 The land has been declared surplus to Highways purposes and is not required for service delivery by Cheshire East Council.
- 3.2 Wybunbury Parish Council are seeking to use the land for recreational purposes and thus public benefit will be derived from the use of the land.
- 3.3 In the transfer of the land Cheshire East Council will relieve itself of all grounds maintenance responsibilities and costs relating to its upkeep.
- 3.4 Cheshire East Council will reserve all necessary rights over the land to gain access to the adjacent bridge for maintenance purposes.
- 3.5 In accordance with the Local Government Act 1972: General Disposal Consent (England) 2003) it is considered that the purpose for which the land is to be disposed is likely to contribute to the achievement of the promotion or improvement of social well-being and the promotion or improvement of environmental well-being and thus it is considered that the manner of the proposed use would justify a disposal of less than market/fair value without a use restriction.

- 3.6 The Parish Council wish to take ownership of the site with vacant possession and thus here is a need to terminate the existing garage occupation.

#### **4.0 Wards Affected**

- 4.1 Doddington Ward

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

- 5.1 Councillor John Hammond  
Councillor David Brickhill  
Councillor Rodney Walker CBE

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

- 6.1 The land is considered to be surplus to service requirements.

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

- 7.1 None.

#### **8.0 Financial Implications 2010/2011 and beyond (Authorised by the Borough Treasurer)**

- 8.1 Cheshire East Council to cover its own legal fees associated with the land transfer.

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

- 9.1 None.

#### **10.0 Risk Management**

- 10.1 There are no perceived risk management issues. The reservation of all required rights will be within the agreed terms and conditions of transfer.

#### **11.0 Background and Options**

- 11.1 It is understood that the land was purchased by Cheshire County Council approximately fifty years ago so as to provide access to carry out repairs and possible widening of the adjacent road bridge.
- 11.2 The land has been declared surplus to Highways purposes and is not required for service delivery by Cheshire East Council.

- 11.3 The land falls away in levels towards the stream to the north and is covered in mixed unmanaged vegetation. Also located on the site is a substantial willow tree.
- 11.4 The land has not been subject to regular maintenance regime and work has generally been undertaken on a demand basis.
- 11.5 Wybunbury Parish Council are seeking to acquire the land for the purpose of creating a recreational facility on the site. The Parish Council currently own the adjacent plot located to the west of the land in question.
- 11.6 Should the transfer not proceed to the Parish Council then the land will be made available for sale on the open market.

## **12.0 Consultation**

- 12.1 The Leisure Services and Greenscape Manager and the Local Area Partnership Manager have both been consulted on the proposal and are supportive of the transfer of the land to the Parish Council.

## **13.0 Best Consideration**

- 13.1 Should the land be advertised for sale on the open market without use restriction but with the reservation of the required maintenance access rights for Cheshire East Council then it is considered that the site would have a limited value as a consequence of the planning constraints on alternative use, site levels the risk of flooding a part of the site from the adjacent stream and the aforementioned access rights. It is likely that any offers received would be on a speculative basis and thus it is difficult to provide a firm indication of market value. A value range from £500-£2000 would be expected.

## **14.0 Disposal at less than Best Consideration**

- 14.1 In accordance with the Local Government Act 1972: General Disposal Consent (England) 2003) it is considered that the purpose for which the land is to be disposed is likely to contribute to the achievement of the promotion or improvement of social well-being and the promotion or improvement of environmental well-being and thus it is considered that the manner of the proposed use would justify a disposal of less than market/fair value.
- 14.2 The transfer of the land will include a covenant which restricts the use of the land to that of its intended use i.e. for recreational/non commercial benefit. This will ensure that Cheshire East Council safeguards any latent value which may be capable of release from the disposal of the site at a later date. Cheshire East Council will also reserve all necessary rights over the land to gain access to the adjacent bridge for maintenance purposes. The effect of these restrictions is that the land has a nominal value.

## **15.0 Disposal method**

- 15.1 The Community benefit derived from the transfer of the land is considered to be satisfactory to justify the transfer of the land to a named party; the Parish Council, rather than placing the land for sale on the open market. The future use of the land and any potential latent value can be influenced by Cheshire East Council through the requisite legal mechanisms within the terms of transfer.

## **16.0 Overview of Year One and Term One Issues**

- 16.1 There are no specific issues within this report.

### **Access to Information**

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

Name: Peter Hall  
Designation: Head of Property Services  
Tel No: 01270 686133  
Email: [Peter.hall@cheshireeast.gov.uk](mailto:Peter.hall@cheshireeast.gov.uk)