

# OFFICER DECISION RECORD

<b>Decision Maker:</b>	Paul Bayley – Interim Executive Director Place
<b>Date:</b>	16 <sup>th</sup> September 2021
<b>Title:</b>	Dispose of open space land off Talke Road, Alsager
<b>Decision:</b>	<p>That approval be given to:</p> <ol style="list-style-type: none"> <li>1. Advertise the proposal to dispose of open space land off Talke Road, Alsager (as outlined in Red on the attached plan)</li> <li>2. Give due and proper consideration by Executive Director Place to any objections and representations received in accordance with the advertised proposal to dispose and to make a decision based upon the merits of any such objections as to whether or not any such disposal should proceed.</li> </ol> <p>If objections are received and following due and proper consideration by Executive Director of Place and a decision has been taken that the proposed disposal should not proceed then this decision shall have no further effect.</p> <p>If either there are no such objections to the proposed disposal of the land or objections are received and a decision has been taken that the proposed disposal should nevertheless proceed then approval is also given to:</p> <ol style="list-style-type: none"> <li>3. declaring land off Talke Road, Alsager surplus to operational requirements; and</li> <li>4. disposal of that land to a Named Party (special purchaser), and</li> <li>5. to instruct the Director of Legal Services to proceed to legal completion on terms and conditions as agreed by the Head of Assets/ Property Assets Manager and Director of Governance and Compliance</li> </ol>
<b>Significant Decision?</b>	No
<b>Report From:</b>	<p>Position: Estates Surveyor</p> <p>Contact Name: Lee Beckett</p> <p>Telephone: 01270 686122</p> <p>Email: lee.beckett@cheshireeast.gov.uk</p>
<b>Authority:</b>	<p>The Constitution dated June 2021, Chapter 2, Part 5, Paragraph 53 delegates the Executive Director Place authority to dispose of assets.</p> <p>Chapter 3, Part 4, Paragraph 44 delegates the disposal of land and property below £2m to a member of the Corporate Leadership Team in consultation with the Chief Finance Officer and the Executive Director Place.</p>
<b>Consultee(s):</b>	Alex Thompson, Director of Finance and Customer Services
<b>Conflicts of Interest:</b>	<p>Conflicts of interest declared by the decision maker: N/A</p> <p>Conflicts of interest declared by Consultee(s):</p>
<b>Does the report contain</b>	Yes – <i>appendix II &amp; III</i>

<p><b>confidential or exempt information?</b></p>	<p><i>Information relating to the financial or business affairs of any particular person (including the authority holding that information).</i></p> <p><b>THE PUBLIC INTEREST IN MAINTAINING THE EXEMPTION OUTWEIGHS THE PUBLIC INTEREST IN DISCLOSING THE INFORMATION.</b></p>
<p><b>Legal Input:</b></p>	<p><i>Please see legal advice from the appropriate Legal Contact before seeking approval from the Consultees. Insert legal implications (to be provided by legal officer)*3 to support the decision being taken here.</i></p> <p>I am satisfied that the recommended option is supportable in respect of the information contained in this Officer Decision Record.</p> <p>Cheshire East Borough Council may dispose of land to any party it wishes (Section 123 of the Local Government Act 1972) after, in the case of Public Open Space, advertising the land in accordance with Section 123 of the Local Government Act 1972 (as amended by Section 118 of the Local Planning and Land Act 1980).</p> <p>If objections are received and following due and proper consideration by Executive Director of Place and a decision has been taken that the proposed disposal should not proceed then this decision shall have no further effect.</p> <p>If either there are no such objections to the proposed disposal of the land or objections are received and a decision has been taken that the proposed disposal should nevertheless proceed then the Council may proceed with the sale of the land.</p> <p><i>Amanda Timpany</i></p>
<p><b>Finance Input:</b></p>	<p><i>Please seek financial advice from the appropriate Finance Contact*3 before seeking approval from the Consultees. This should cover costs, budget provisions or funding source utilised, and any other financial consequences.</i></p> <p>Please see the attached exempt information appendix II.</p> <p>The applicant has agreed to cover the Council's legal and surveyor costs.</p> <p>The recommended option is considered to represent best value for the Council as per Section 123 of the Local Government Act 1972.</p> <p>I am satisfied that the recommended option is supportable.</p> <p>Joanne Wilcox   Head of Financial Management</p>

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## 1. THE DECISION:

That approval be given to:

1. Advertise the proposal to dispose of open space land off Talke Road, Alsager (as outlined in Red on the attached plan).
2. Give due and proper consideration by Executive Director of Place to any objections and representations received in accordance with the advertised proposal to dispose and to make a decision based upon the merits of any such objections as to whether or not any such disposal should proceed.

If objections are received and following due and proper consideration by Executive Director of Place and a decision has been taken that the proposed disposal should not proceed then this decision shall have no further effect.

If either there are no such objections to the proposed disposal of the land or objections are received and a decision has been taken that the proposed disposal should nevertheless proceed then approval is also given to:

3. declaring land off Talke Road, Alsager surplus to operational requirements; and
4. disposal of that land to a Named Party (special purchaser), and
5. to instruct the Director of Legal Services to proceed to legal completion on terms and conditions as agreed by the Head of Assets/ Property Assets Manager and Director of Governance and Compliance.

## 2. REASONS FOR THE DECISION:

The Council has been approached by [REDACTED] seeking to acquire the Council's land (outlined in red on the attached plan) for a residential development. [REDACTED] has recently acquired the adjacent site and have approached the Council to acquire the Council's land to deliver a comprehensive and cohesive development as a special purchaser.

The Council's land is located to the north of Talke Road, Alsager, close to Alsager town centre and comprises of up to circa 3.69 acres of land used as informal amenity space.

The Council's land is accessed via an adopted highway off Talke Road, which also provides access to the adjoining allotments. Access is also provided to the rear of the dwellings facing Talke Road which is included within the site. As part of the negotiations, the Council has reserved a right over the disposal area (pedestrian and vehicular) for access to the Council's retained land if necessary, with a defined access route in keeping with the Purchaser's design.

The site has been included within an outline planning consent for 110 dwellings from October 2014 (15/2101C). It is designated in the Cheshire East Local Plan as 'Protected Area of Open Space Recreational Facility'. The site is referenced in the Local Plan and has been allocated as a Housing and Employment site (LPS 21: Twyfords and Cardway, Alsager). The Local Plan considers this larger site to be able to deliver around 550 homes, retention of existing office development and appropriately deal with open space provision.

The public open space designation means that should the Council wish to dispose of the asset it would have to work through the public open space notice process before taking a decision on disposal of the land as per Section 123 of the Local Government Act 1972.

If the Council proposes to dispose of open space land it is required by statute to advertise the intention for two consecutive weeks in the local press. This allows the local community opportunity to comment on the proposed disposal and the Council must give due and proper consideration to the responses that are received.

The decision to dispose as requested herein is wholly conditional upon and subject to the outcome of this statutory process. There is no presumption or pre-determination of the outcome of consideration of any objections to the proposed disposal and if, upon consideration of the merits of any such objections, it would not be reasonable to proceed with the proposed disposal then this decision shall be of no further effect.

There shall be a transparent process. All objections received must be duly and properly considered before a decision to sell can be processed. The proposed disposition of the property will not take place if any valid objections are considered to have sufficient weight to merit retention of the open space.

Historical records indicate the site was formerly crossed by railway lines and sidings (1875-1976) with related features such as an engine shed, engine turntable, tank and coal stage. The engine shed was closed, and the site cleared during the 1960s. Anecdotal evidence suggests demolition materials were used to infill former engine pits and turn table with excess spoil stockpiled in a large mound to the sites centre. Site investigations have confirmed that the contamination on this site is in line with what would be expected for a site with these uses.

As such, the proposed sale is conditional upon abnormal costs and the Purchaser obtaining a satisfactory planning permission for a residential development and must demonstrate to the reasonable satisfaction of the Council that the Planning Permission is a reasonable application which maximises the development opportunity of the Property.

The sale is also subject to an overage agreement from completion and will only trigger on the implementation of any planning permission if the aggregate Net Internal Area of the dwellings as per the satisfactory planning permission on the Property exceeds an agreed amount of square footage. The overage is to remain payable on the grant of every planning application on any part or the whole of the Property in until such time as to there is a disposal for affordable housing. When individual properties are disposed of for share ownership / right to acquire, these would be classed as an exempt disposal (as will disposals to statutory utility suppliers etc.). Once all properties are disposed, the Council will remove the overage.

### 3. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED:

The alternative is for the land to be retained within the Council's operational portfolio; however, this would prevent [REDACTED] from implementing the proposed scheme and the Council achieving a capital receipt for a surplus asset.

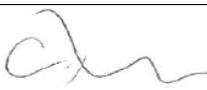
### 4. BACKGROUND INFORMATION

Background information is outlined within the reasons for the decision.

Local Ward Members (Cllr Rod Fletcher, Cllr Buckley, Cllr Phil Williams) have been consulted and have no objections to the proposal has been received.

#### Supporting documents

- Appendix I – Plan
- Appendix II – Exempt Information (not for publication)
- Appendix III – Valuation Report (not for publication)

<b>Signed:</b> [Officer title]	 Director of Environment and Neighbourhood Services, Interim Executive Director - Place
<b>Signed:</b> [Consultee title]	 Director of Finance and Customer Services

## **\*1 Significant Decisions**

The rules relating to significant decisions are set out in the Constitution under Access to Information Procedure Rules (Chapter 3 Part 2).

Paragraphs 26 and 27 require that a Forward Plan be prepared containing matters which the committee chairs have reason to believe will be significant decisions to be taken by a committee or sub-committee during the period covered by the plan.

Paragraph 27.2 states that where the decision taker is an individual, his/her name and title shall be included in the Forward Plan.

Paragraph 29 states that: 'As soon as reasonably practicable after any decision has been made by an officer, he/she will prepare, or instruct the Proper Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. Significant decisions made by Officers will also be open to inspection.'

NOTE: Significant decisions are not, merely by virtue of their significance, subject to referral.

Only decisions taken by committees/sub-committees or under a specific delegation to officers, whether significant or not, are subject to referral.

## **\*2 Referral of Decisions**

The Constitution (Chapter 3: Part 1—Section 2) paragraphs 4.19 to 4.25 sets out the procedure for Referrals of Decisions.

These rules apply to decisions taken by a service committee or by an officer with a specific delegated authority from a service committee.

Under this procedure, any decision specifically delegated to an officer can be the subject of a referral request.

It is the source of the authority for the decision rather than its significance that is relevant under this procedure.

Where a decision is the subject of a specific delegation and therefore subject to referral, that decision will not be implemented, until the expiry of 5 clear working days after the decision was made and recorded.

NOTE: A significant decision taken by an officer under powers contained in the scheme of delegation would not be subject to referral.

## **\*3 Contributors**

Whilst the report author (Service) provides the content of the report, in all cases legal and finance advice MUST be provided by an officer from Legal and Finance.

The report author may also wish to include input from other enabling services which can be included in page 2.