

# Cabinet Agenda

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**Date:** Monday, 17th September, 2012  
**Time:** 2.00 pm  
**Venue:** Council Chamber, Municipal Buildings, Earle Street, Crewe  
CW1 2BJ

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The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

## **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Public Speaking Time/Open Session**

In accordance with Procedure Rules Nos.11 and 35 a total period of 10 minutes is allocated for members of the public to address the Committee on any matter relevant to the work of the Committee.

Individual members of the public may speak for up to 5 minutes but the Chairman will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers.

In order for an informed answer to be given, where a member of the public wishes to ask a question of a Cabinet Member three clear working days notice must be given and the question must be submitted in writing at the time of notification. It is not required to give notice of the intention to make use of public speaking provision but, as a matter of courtesy, a period of 24 hours notice is encouraged.

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Please contact Cherry Foreman on 01270 686463  
E-Mail: [cherry.foreman@cheshireeast.gov.uk](mailto:cherry.foreman@cheshireeast.gov.uk) with any apologies or requests for further information or to give notice of a question to be asked by a member of the public

4. **Minutes of Previous Meeting** (Pages 1 - 12)

To approve the minutes of the meeting held on 20 August 2012.

5. **Key Decision CE11/12-42 Review of Discretionary Rate Relief Policy** (Pages 13 - 50)

To consider a number of revisions to the policy.

6. **Key Decision CE12/13-15 Connecting Cheshire Superfast Broadband Partnership** (Pages 51 - 56)

To consider the partnership arrangements proposed for the delivery of the Connecting Cheshire Superfast Broadband Project.

7. **Key Decision CE12/13-18 Delivery of Streetscape and Parking Maintenance Activities** (Pages 57 - 66)

To consider extending the scope of the Highways Services Contract to include streetscape and parking maintenance activities.

8. **Key Decision CE12/13-20 PATROL Nomination to be Host Authority** (Pages 67 - 74)

To consider proposals for Cheshire East Council to become the host authority to the PATROL Adjudication Joint Committee, and the Bus Lane Adjudication Joint Committee.

9. **Key Decision CE12/13-11 Congleton Transport Infrastructure - Assessment of a New Link Road** (Pages 75 - 88)

To consider a programme for the development, promotion and delivery of a new transport infrastructure for Congleton.

10. **Key Decision CE12/13-12 Affordable Housing Programme Phase 2** (Pages 89 - 100)

To consider the disposal of a number of sites for the provision of affordable housing.

11. **Congleton Town Centre - Bridestones Extension and Public Open Space Disposal Objection** (Pages 101 - 108)

To consider an objection to the disposal of open space within the development area.

12. **Poynton Relief Road** (Pages 109 - 120)

To consider the necessary work to support the investigation of a new preferred route for the Poynton Relief Road.

13. **Notice of Motion - South Macclesfield Development Area** (Pages 121 - 124)

To receive an update in respect of work being undertaken in this area, in response to a Notice of Motion submitted to full Council.

14. **Notice of Motion - Highway Maintenance Funding Allocation** (Pages 125 - 128)

To consider the response to the Notice of Motion submitted to Council regarding planned road maintenance activity.

15. **Notice of Motion - A500/J16 of the M6 Motorway** (Pages 129 - 132)

To consider a response to the Notice of Motion submitted to the Council on the need for remedial work at this junction.

16. **Notice of Motion - Benefit Awareness** (Pages 133 - 136)

To consider a response to the Notice of Motion to Council on the need for a campaign to improve benefits awareness.

17. **Notice of Motion - Suspension of Employees Accused of Misconduct** (Pages 137 - 140)

To consider a response to the Notice of Motion submitted to the Council calling for a review of its practices in this respect.

18. **Exclusion of the Press and Public**

The reports relating to the remaining items on the agenda have been withheld from public circulation and deposit pursuant to Section 100(B)(2) of the Local Government Act 1972 on the grounds that the matters may be determined with the press and public excluded.

The Committee may decide that the press and public be excluded from the meeting during consideration of the following items pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and public interest would not be served in publishing the information.

**PART 2 – MATTERS TO BE CONSIDERED WITHOUT THE PUBLIC AND PRESS PRESENT**

19. **Key Decision CE12/13-11 Congleton Link Road RGF Bid** (Pages 141 - 150)

To consider a report of the Strategic Director of Places and Organisational Capacity.

20. **Key Decision CE12/13-12 Affordable Housing Programme Phase 2** (Pages 151 - 160)

To consider a report of the Strategic Director Places and Organisational Capacity.

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Cabinet**  
held on Monday, 20th August, 2012 in Committee Suite 1,2 & 3, Westfields,  
Middlewich Road, Sandbach CW11 1HZ

**PRESENT**

Councillor M Jones (Chairman)  
Councillor D Brown (Vice-Chairman)

Councillors Rachel Bailey, L Gilbert, J Macrae, R Menlove, B Moran and  
P Raynes

Councillors in attendance:

Rhoda Bailey, G Baxendale, L Brown, P Findlow, R Fletcher, S Gardiner,  
M Grant, P Groves, A Kolker, B Murphy, D Newton, M Simon, L Smetham,  
A Thwaite, J Weatherill and S Wilkinson.

Officers in attendance:

Interim Chief Executive; Borough Solicitor and Monitoring Officer; Director of  
Children, Families, and Adults; Director of Finance and Business Services;  
Head of Customer Services and Capacity; Head of HR and Organisational  
Development; Manager of Strategic Commissioning; and Strategic Director  
Places and Organisational Capacity.

**35 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors J Clowes and H  
Gaddum.

**36 DECLARATIONS OF INTEREST**

Agenda Item 11 (Review of Discretionary Rate Relief Policy) - Councillor  
Rachel Bailey declared a non pecuniary interest by virtue of being a member  
of Cholmondeley Tennis Club.

**37 PUBLIC SPEAKING TIME/OPEN SESSION**

Ian Chalmers of the Cheshire Academy of Integrated Sport and Arts spoke  
on the need to relocate from the current base at Macon House to the  
premises of the former Broad Street School. The Charity had been founded  
20 years ago to provide care and support for the disabled and their families  
and at present approx 200 people a week used its facilities with many of its  
students participating in sports at an international level. The proposals had  
been well received by residents in the locality and it was hoped the new  
facilities would become a hub for the local community.

**38 MINUTES OF PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting held on 23 July 2012 be approved as a correct record.

**39 KEY DEC 12/13-7: SPECIAL EDUCATIONAL NEEDS AND DISABILITY POLICY**

Consideration was given to the proposed Special Needs and Disability Policy following its period of statutory consultation. The Policy was built on the vision that the Local Authority sought to ensure that 'no child or young person is left behind' and that every child and young person achieves the best possible outcomes.

The Policy reinforced the commitment of the service and its partners to continue to support, maintain and develop a diversity of high quality, effective, efficient and economic provision to meet the needs of children and young people with special educational needs and disability from birth to age 25 years.

**RESOLVED**

That the Special Educational Needs and Disability Policy be approved and endorsed.

**40 KEY DEC 11/12-21: CHESHIRE HOMECHOICE COMMON ALLOCATIONS POLICY REVIEW**

Consideration was given to proposed changes to the Cheshire Homechoice Common Allocations Policy following a period of consultation. The scheme had been operating effectively for 2 years but there were some areas that needed improving and reviewing in the light of experience and also to take into account proposed changes in the Localism Bill. The report detailed the proposed changes and all current housing register applications would be reassessed under the new need assessment.

**RESOLVED**

That approval be given to the revised Cheshire Homechoice Common Allocations Policy.

**41 KEY DEC 11/12-29: COMPULSORY PURCHASE OF LAND TO FACILITATE THE CREWE GREEN LINK ROAD SOUTH**

Consideration was given to a report updating the Cabinet on the position regarding the compulsory purchase of land to facilitate the Crewe Green Link Road South. Further detailed design work had refined the area of land

necessary to deliver the scheme and the Cabinet now had to formally resolve to use its Compulsory Purchase Powers to enable the acquisition of land and to secure funding for the scheme from the Department of Transport.

**RESOLVED**

1. That approval be given to the use of the Councils Compulsory Purchase Powers to undertake the acquisition of land required for the scheme between the A500 roundabout and the A5020 Weston Gate roundabout.
2. That an Order be made under Sections 239, 240, 246, 250,260 and 327 of the Highways Act 1980 and all other powers as appropriate for the compulsory purchase of land and rights required for the construction of Crewe Green Link Road South as shown on drawing No: B1772401/CPO/001 (Rev.1) or with such amendments to final plot boundaries as approved by the Strategic Director Places & Organisational Capacity.
3. That the Order being submitted to the Secretary of State for confirmation.
4. That the Borough Solicitor and Strategic Director Places and Organisational Capacity be authorised to take all appropriate actions in this matter including:-
  - i) To take all necessary action to secure the making and confirmation and implementation of the Order including the publication and service of all relevant notices and the presentation of the Council's case at any public inquiry and subsequent service of Notices to Treat and Notices of Entry or at their discretion the execution of General Vesting Declarations as the case may be if the Order is confirmed; and
  - ii) To negotiate to acquire all interests in the land and new rights within the Order and rights and interests affected by the Order either by agreement or compulsorily including prior to the making of the Order and where appropriate to agree terms for relocation.
  - iii) To approve agreements and undertakings with the owners of any interest in the Order and any objectors to the confirmation of the Order setting out the terms for the withdrawal of objections to the Order, including where appropriate; seeking inclusion in and/or exclusion from the Order of land or new rights; and
  - iv) In the event that the question of compensation be referred to the Upper Tribunal (Lands Chamber) to take all necessary steps in relation thereto including advising on the appropriate compensation payable and

v) To appoint appropriate consultants if necessary to assist and advise in regard to the above.

5. That it be noted that in the meantime continuing efforts are being made to acquire the land by agreement to enable the Crewe Green Link Road to be progressed.

#### **42 KEY DEC 11/12-30: TENANCY STRATEGY**

In accordance with the requirements of the Localism Act 2011 the Council had produced a Tenancy Strategy. The Act introduced flexible tenancies under which Registered Providers could grant fixed term tenancies for a period of no less than 2 years, and determine the type and duration of a tenancy offered to new tenants, including the retention of lifetime tenancies.

The Strategy set out the matters to which Registered Providers of social housing in its district are to have regard to in formulating policies relating to tenancies.

#### **RESOLVED**

That approval be given to the Tenancy Strategy and that Officers be authorised to take all necessary actions to implement the Strategy.

#### **43 KEY DEC 12/13-9: LIBRARIES STRATEGY**

Consideration was given to a new Libraries Strategy which had been developed to define the priorities for Cheshire East Libraries to ensure the Council fulfilled its statutory duties whilst also contributing to the priorities for action set out in the Cheshire East Sustainable Communities Strategy.

No radical changes were proposed with the key challenge being to continuously improve and modernise the way the service was delivered to keep pace with evolving customer expectation, and to be flexible and responsive in order to take advantage of opportunities when they presented themselves.

#### **RESOLVED**

That the new Libraries Strategy be endorsed.

#### **44 KEY DEC 12/13-12: AFFORDABLE HOUSING PROGRAMME - PHASE TWO**

The Portfolio Holder for Prosperity and Economic Regeneration requested that consideration of this item be deferred until the next meeting of the Cabinet in order to allow further time for consultation with Members.

**RESOLVED**

That consideration of this matter be deferred until the next meeting of the Cabinet on 17 September 2012.

**45 KEY DEC 11/12-42: REVIEW OF DISCRETIONARY RATE RELIEF POLICY**

The Portfolio Holder for Finance requested that consideration of this matter be deferred until the next meeting of the Cabinet in order to allow time in which to clarify a number of points raised by Members and for the Policy to be considered by the Corporate Scrutiny Committee.

**RESOLVED**

That consideration of this matter be deferred until the next meeting of the Cabinet on 17 September 2012.

**46 KEY DECISION: TRANSFER OF THE FORMER BROAD STREET SCHOOL, CREWE**

Consideration was given to a proposal to relocate the Cheshire Academy of Integrated Sport and Arts from their existing premises at Macon Way to the former Broad Street School. The existing premises were in very poor condition in addition to which the work of the Academy had expanded significantly since its foundation and they no longer provided the scale or quality of accommodation needed.

In view of the important contribution made by the Academy to the Council's wider corporate objectives a number of alternative options had been considered and the now vacant former Broad Street School was now proposed.

**RESOLVED**

1. That a leasehold interest for a term of more than 15 but no more than 25 years of the former Broad Street School, Crewe be granted on full repairing and insurance terms to the Cheshire Academy of Integrated Sport and Arts.
2. That the Strategic Director for Places and Organisational Capacity, the Director for Finance and Business Services and the Borough Solicitor be given delegated authority to finalise the details of the lease in accordance with the procedures and controls detailed in the report.

3. That the required consents for the proposed lease of the former Broad Street School be sought from the Secretary of State for Education.

#### **47 KEY DEC 12/13-10: REVIEW OF RECYCLE BANK SITES**

Following the introduction of the silver bin kerbside recycling service there had been a significant reduction in the use of recycling banks across Cheshire East. The opportunity had been taken to review the number and type of banks provided in order to remove the duplication of provision and to refocus sites on materials not collected as part of the kerbside scheme, such as books, textiles and shoes, the reuse and recycling of which needed to be promoted.

#### **RESOLVED**

That approval be given to cease the provision of banks that duplicate the silver bin kerbside collection of materials, and to promote the provision of banks that collect materials not collected in the silver bin.

#### **48 2012/2013 FIRST QUARTER REVIEW OF PERFORMANCE**

Consideration was given to the Council's financial and non-financial performance during the first quarter of 2012/13. The report detailed projections of service revenue, financial performance, the key financial pressures faced and the remedial measures identified by services to mitigate the pressures. The report also provided an update on the overall financial stability of the Council and the key non-financial performance headlines for the year to date. Approval was sought to requests for supplementary revenue and capital estimates and virements.

#### **RESOLVED**

1. That the projected service revenue outturn positions be noted. (Section 1 of the report)
2. That the overall financial stability of the Council, and the impact on the Council's general reserves position be noted. (Section 2 of the report)
3. That the Council's invoiced debt position be noted. (Appendix 3 of the report)
4. That the delivery of the overall capital programme, and budget adjustments within programme blocks be noted. (Section 2, paragraphs 98 to 103 and Appendices 4 and 5 of the report)

5. That the service performance successes achieved during the first quarter of 2012/2013 be noted, and how any underperformance against targets will be addressed. (Section 3 of the report)
6. That approval be given to:
  - Supplementary Capital Estimates and virement requests over £100,000 and up to and including £1,000,000. (Appendix 6 of the report)
  - Supplementary Revenue Estimates for additional expenditure fully funded from grants. (Section 2, paragraph 86 and Appendix 2 of the report)
7. That Council be requested to approve:
  - a Supplementary Capital Estimate/Virement request over £1,000,000. (Appendix 7 of the report)

#### **49 RISK MANAGEMENT POLICY REVIEW**

Consideration was given to the Council's updated Risk Management Policy which was part of the overall internal control framework and corporate governance arrangements. The Policy was last reviewed in September 2011 at which time it was agreed that it be reviewed annually; a number of minor amendments had been made to strengthen the Policy.

#### **RESOLVED**

That approval be given to the updated Risk Management Policy and that it continue to be reviewed annually.

#### **50 REVIEW OF SERVICE DELIVERY OPTIONS**

Consideration was given to a report outlining potential service delivery options for the recycling and waste service post April 2014, which marked the end of the existing contracts. The report included details of the various options available, and of the initial preferred delivery option, and sought permission to appoint consultants to carry out a more detailed analysis and to work with the Council to procure the necessary waste and recycling services.

#### **RESOLVED**

1. That approval be given to the procurement of a suitable technical consultant to review the existing service delivery arrangements and work with the Council to procure service delivery from April 2014, the funding for which was agreed by the Cabinet as part of the First Quarter report earlier on this agenda.
2. That support be given to an 'Integrated procurement' as the initial preferred procurement option subject to the work of the technical consultants referred to above.

**51 CHESHIRE EAST PLANNING GUARANTEE AND IMPROVEMENTS TO THE DEVELOPMENT MANAGEMENT SERVICE**

Consideration was given to the introduction of a Planning Guarantee Scheme designed to ensure that no planning application dealt with by the Authority should take longer than 1 year from the date of validation to reach a decision.

The Scheme was intended to improve overall planning performance and deal with perceived delays on the part of applicants in the delivery of Section 106 planning obligation agreements.

**RESOLVED**

1. That Cabinet agrees to work towards the introduction of a Planning Guarantee scheme on a phased basis from September 2012, subject to agreement with developers at the Council's Development Forum and subject to the points raised in the legal implications section of the report.
2. That improvements to date and the significant increase in performance be noted.

**52 NOTICE OF MOTION: ARMED FORCES COMMUNITY COVENANT**

A Notice of Motion, submitted by Councillor G Baxendale to the Council on 19 July 2012, had been referred to the Cabinet for consideration. On 30 June 2012 the Mayor had signed the Cheshire Community Covenant and the Cabinet was asked to take responsibility for the development of a detailed action plan to outline by service area the practical support that the Council could provide to those currently serving in the Armed Forces, their families, and those that had served in the past.

Since the Motion had been submitted the Sustainable Communities Committee had considered the issue and it was reported that the provisions for housing allocations and school admissions were to be looked at further.

**RESOLVED**

That Cabinet accepts responsibility for the development of a detailed action plan, and that the outcome of further work by the Scrutiny Committees on the provisions for housing allocations and school admissions be awaited.

**53 NOTICE OF MOTION: CORPORATE COMMUNICATIONS**

A Notice of Motion, submitted by Councillor B Murphy to the Council on 19 July 2012, had been referred to the Cabinet for consideration; the Motion called for the establishment of an all party inquiry into the Council's corporate communications.

At the meeting the Portfolio Holder for Strategic Communities reported that a Group comprising himself plus Councillors R Fletcher, B Murphy, M Simon and L Smetham was to be established to carry out a review, to include the Media Relations Protocol which had been first approved by Cabinet in 2009.

**RESOLVED**

That a temporary cross party group be established, as set out above, to review the media relations protocol, and that the points made in the motion be noted.

**54 NOTICE OF MOTION: THE USE AND APPROVAL OF OUTSIDE CONSULTANTS**

Consideration was given to a Notice of Motion, submitted by Councillor D Brickhill to the Council on 19 July 2012, which had been referred to the Cabinet. The Motion concerned the employment of outside consultants. The report detailed the current approval process required for the appointment of all consultants, along with the framework agreements in place for any such procurement, both of which were considered to be sufficiently rigorous.

**RESOLVED**

Cabinet considers that the Council already has sufficiently rigorous arrangements in place for the engagement of consultants and will therefore take no further action in response to the Notice of Motion.

**55 NOTICE OF MOTION: CARE QUALITY COMMISSION REPORT JUNE 2012 - LEARNING DISABILITIES**

A Notice of Motion, submitted to The Council on 19 July 2012 by Councillors G Boston and L Jeuda, had been referred to the Cabinet. The Motion concerned the placement of any people in Cheshire East in any services with safeguarding issues.

The report to the Cabinet provided the information that had been requested in the Motion along with details of action plans that had been put in place to address issues raised at the time of the Council's last unannounced inspection of the local Assessment and Treatment Unit in Macclesfield in October 2011.

**RESOLVED**

1. That the progress that has been made in the local Assessment and Treatment Unit since the Care Quality Commission's inspection be noted.

2. That the role and monitoring arrangements of the Adult Safeguarding Board within Cheshire East be noted.
3. That the regular monitoring and the review of the advocacy services in Cheshire East be noted.

## 56 **HEALTHWATCH**

Consideration was given to proposals for setting up a Local Healthwatch in Cheshire East, in accordance with the Health and Social Care Act 2012. This would be an independent consumer champion for health and social care with responsibilities for monitoring and scrutinising services as well as providing advice and signposting; it would replace the Local Involvement Network (LINK) which would cease to exist. A consultation process had been carried out to understand how Healthwatch could best be delivered and its procurement now needed to be carried out.

### **RESOLVED**

1. That Cabinet endorses the Cheshire East Local Healthwatch consultation.
2. That a selection process be held for a Local Healthwatch Board for which support is given.
3. That procurement and tendering exercise be started now to set up and deliver Local Healthwatch in the Cheshire East Council area.
4. That it be noted that the value of the contract for this service is likely to require a Key Decision as defined by the Council's Constitution, which will be determined once the overall funding has been confirmed by the Department of Health later in 2012; the contract length would be for an initial 2 years from April 2013.
5. At least two Members be identified to take part in the selection/interview process for a Local Healthwatch support organisation.
6. That it be agreed that a representative from the Local Healthwatch should sit on the Health and Wellbeing Board (in both shadow and full form) to provide an additional channel for understanding the views of health and social care customers as set down in the Health and Social Care Act 2012.
7. That the Local Healthwatch does not take on the Independent Complaints Advocacy Service and instead this is procured separately.

**57 EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED**

That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A)4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and the public interest would not be served in publishing the information.

**58 KEY DEC 12/13-12: AFFORDABLE HOUSING PROGRAMME - PHASE TWO**

The Portfolio Holder for Prosperity and Economic Regeneration requested that in line with the deferral of the associated item earlier on the agenda, consideration of this matter also be deferred until the next meeting of the Cabinet.

**RESOLVED**

That consideration of this matter be deferred until the next meeting of the Cabinet on 17 September 2012.

The meeting commenced at 2.00 pm and concluded at 3.40 pm

M Jones (Chairman)

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## CHESHIRE EAST COUNCIL

### REPORT TO: CABINET

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**Date of Meeting:** 17th September 2012  
**Report of:** Director of Finance and Business Services  
**Subject/Title:** Review of Discretionary Rate Relief Policy  
**Portfolio Holder:** Councillor Peter Raynes

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#### 1. Report Summary

- 1.1 On 2 December 2008, Cabinet approved a Discretionary Rate Relief Policy for Cheshire East Council (appendix 4 *\_dec08 cab report*). Rate Relief reduces the Council's contribution to the central pool for business rates, but in certain cases relief is also part funded by the Local Authority.

In 2011/2012 Cheshire East granted overall relief of £5,390,206 to registered charities, non-profit making organisations and businesses within rural settlement areas. £166,269 of this was funded directly by Cheshire East Council.

Changes in Non-Domestic Rate legislation have lead to some anomalies and some parts of the policy need updating.

In order to prevent loss of revenue, and ineligible or fraudulent relief being awarded, a review of relief awarded is included in the 2012/2013 revenues work programme. It is the intention that entitlement to relief will then be reviewed every 3 years.

#### 2. Decision Requested

- Amend the wording of the policy so that ratepayers, applying for discretionary relief only, must also apply for Small Business Rate Relief if eligible.
- Award 50% Rural Settlement top-up Relief from 1<sup>st</sup> April 2011 to ratepayers who qualify for all categories of mandatory rural settlement relief.
- Remove all awards of legacy protection and grant relief to ratepayers solely in accordance with the Cheshire East Policy.
- Update the Rural Settlement List following recent boundary changes in Cheshire East. Styal & Kerridge to be added to the list. The settlement of Leighton to be removed from the list following an increase in population.

- From 1<sup>st</sup> April 2012 Cabinet to consider applications for discretionary rate relief under S 47 (5A) LGFA 1988 to determine whether applications are in the Council Tax payers' interests.
- In making their decision, Cabinet members should consider the responses received from affected organisations in conjunction with the EIA. The responses are attached (appendix – 2\_*consultation*) as is a list with respondees highlighted.

### **3. Reasons for Recommendations**

- 3.1. To ensure that discretionary rate relief is correctly awarded in accordance with Section 47 of the Local Government Finance Act 1988.
- 3.2. To ensure that the discretionary relief policy is up to date, robust and fair to all ratepayers in the Cheshire East area.
- 3.3. To prevent loss of revenue and ineligible or fraudulent relief being awarded.

### **4. Wards Affected**

- 4.1. All

### **5.0 Local Ward Members**

- 5.1 All – please see background

### **6.0 Policy Implications**

- 6.1 This report relates to amendments to the Cheshire East policy dated 2<sup>nd</sup> December 2008.

### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- Requiring ratepayers to apply for Small Business Rate Relief before discretionary relief will have no financial implications.
- The decisions related to Rural Settlement top-up Relief will increase the relief given to ratepayers for 2012/2013 by £9,429 at a cost to Cheshire East Council of £2,357.
- Removing awards of legacy protection will reduce relief to ratepayers by £42,594 (based on 2012/2013 liabilities). The proportion of this funded by Cheshire East is £25,555. This will be the saving to Cheshire East.

- Updating the Rural Settlement List following recent boundary changes in the Cheshire East area will have no financial implications at this time.
- Applications under 47(5a) must be fully funded by the Local Authority, and must be awarded in the interests of the Council Tax payer. As such, decisions are to be delegated to Cabinet. The financial impact will be addressed on a case-by-case basis.

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

- 8.1 A consultation has been carried out in respect of these proposals. Consultation with the ratepayers who will be affected if the legacy protection is removed has taken place, and the responses received are attached to this report. Case law states that consultation must comply with four elements:

(1) It must be at a time when proposals are still at a formative stage

(2) It must give sufficient reasons for any proposal to permit of intelligent consideration and response

(3) Adequate time must be given for any consideration and response

(4) The result of the consultation must be conscientiously taken into account in finalising any proposals

Members should satisfy themselves that the consultation has been appropriately conducted. Members need to take these results into account when making final decisions on the proposals in this report.

- 8.2 Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty as follows:

“A public authority must, in the exercise of its functions, have due regard to –

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it..”

Before making any decision on whether to remove legacy protection **due regard** must be paid to the Equality Act 2010. Members need to understand the effect that the removal of the protection will have on people with different protected characteristics. Essentially care must be taken to ensure that there is no disproportionate direct or indirect discrimination in relation to any person with a protected characteristic

which is defined by the Act as a disability, those who have undertaken gender re-assignment, married and civil partners, pregnancy and maternity, race religion or belief, sex and sexual orientation.

An Equality Impact Assessment which considers these issues has been undertaken and is attached to this report (appendix – 3\_*EIA*).

## **9.0 Risk Management**

- 9.1 Risk has been assessed through an Equality Impact Assessment as attached(appendix – 3\_*EIA*).

## **10.0 Background and Options**

### **10.1 Small Business Rate Relief**

Under the current policy ratepayers applying for discretionary rate relief only are required to apply for Small Business Rate Relief where the rateable value of their property is below £10,000. The rateable value threshold for SBRR has now increased to £12,000.

The decision required will alter the wording of the policy so that ratepayers applying for discretionary relief only must also apply for Small Business Rate Relief if the rateable value of their property falls below the Small Business Rate Relief threshold.

This change will not alter the relief that any ratepayer is currently receiving but will make the policy more robust for future years

### **10.2 Legacy Protection**

The current policy gives protection to ratepayers who would receive less relief under the Cheshire East Policy than they did from the legacy billing authorities. No time limit was set on this protection. We have written to all ratepayers who would be affected if legacy protection was removed. Cheshire East currently awards discretionary Rate Relief to around 400 organisations. This decision would affect a total of 46 organisations within Cheshire East (appendix – 1\_*org*). Responses have been received from 9 of those organisations (appendix – 2\_*consultation*). A number of the affected organisations also currently receive funding or grants from Cheshire East Council through other means . These awards are shown on the list at appendix 1\_*org*.

In the interest of fairness and consistency, a decision is required to remove legacy protection and only grant relief to ratepayers in accordance with the Cheshire East Policy. Cheshire East must provide 12 months notice of this change to ratepayers.

Where an affected organisation considers that the removal of their protection may cause serious difficulties in the running of their business

it may apply for Hardship Relief. Hardship Relief can be awarded by the Council where it is satisfied that: the ratepayer would sustain hardship if the authority did not do so and, it is reasonable for the authority to do so, having regard to the interests of its council tax payers.

### 10.3 **Rural Settlement Relief**

Authorities have to draw up a rural settlement list based on rural communities of 3,000 population or less in a designated rural area (outlined by statute).

Recent boundary changes in Cheshire East means that Styal can now be added to our rural settlement list. The settlement of Kerridge needs adding to the list and due to an increase in population Leighton needs removing from the list.

The proposed Rural Settlement List needs to be available for public inspection for three months before the start of the financial year to which it relates.

### 10.4 **Rural Settlement Relief**

Mandatory rate relief is awarded to properties within a designated rural settlement area.

- A sole public house with a rateable value below £12,500 receives 50% mandatory relief and Cheshire East Council currently awards 25% top-up relief.
- A food shop with a rateable value below £8,500 receives 50% mandatory relief; Cheshire East does not award any top-up relief.
- A sole petrol filling station located on an A road, with a rateable value below £12,500 receives 50% mandatory; Cheshire East does not award any top-up relief.
- A sole petrol filling station not located on an A road, with a rateable value below £12,500 receives 50% mandatory relief and Cheshire East Council currently awards 25% top-up relief.

Small Business Rate Relief is available to ratepayers whose rateable value is below £12,000. From 1<sup>st</sup> October 2010 ratepayers with an RV below £6,000 receive 100% relief. However those in receipt of Mandatory Rate Relief are excluded from applying for Small Business Rate Relief.

The decisions required is to award 50% top-up relief from 1<sup>st</sup> April 2011 to ratepayers who qualify for all categories of mandatory rural settlement relief, at a cost to Cheshire East Council of £2,358

#### 10.5 **Discretionary Rate Relief**

From 1<sup>st</sup> April 2012 billing authorities have the discretion to award rate relief where it is in the Council Tax payer's interests to do so under Section 47 (5A) LGFA 1988. It is proposed that any applications under this section are considered by Cabinet. If cabinet wishes it can set criteria for focusing any reductions, for example priority cases could include: Start-up businesses; businesses expanding and increasing levels of local employment; changes that will impact positively on the Council's Local Plan. Any relief awarded will be fully funded by Cheshire East Council.

#### 10.6 **Consultation**

Amendments to the award of discretionary relief need to be advised to the relevant organisation 12 months prior to any award being amended. The review of this policy would take effect from 1<sup>st</sup> April 2013. Notification and consultation with organisations and members followed the timeline below:

**March 2012** - Initial notification to organisations that relief would be reviewed for 2013-14.

**23/24 May 2012** – Notification to Cabinet members (including original policy, letter explaining amendments, list of names and addresses of affected organisations and the possible financial impact for each)

**25 May 2012** – Notification to affected ward members (including original policy, letter explaining amendments, list of names and addresses of affected organisations and the possible financial impact for each)

**29 May 2012** – Letters issued to affected organisations indicating possible financial impact and inviting comments

**1 June** – Responses received from affected organisations

**Cabinet meeting** – Responses considered

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

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

Name: Lisa Quinn

Designation: Director of Finance and Business Services

Tel No: x86628 01270 686628

Email: [lisa.quinn@cheshireeast.gov.uk](mailto:lisa.quinn@cheshireeast.gov.uk)

Background papers: Charity Commission constitution reports



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**DISCRETIONARY RATE RELIEF AFFECTED RATEPAYERS**

RATEPAYER	ADDRESS	FROM £	TO £	SAVING to CE	WARD	COUNCILLOR(S)	RESPONSE RECEIVED	OTHER FUNDING/ GRANT
Africa Christian Teaching Service	15, Crestwood Close, Wistaston,	57.11	0.00	42.83	Willaston and Rope	Brian Silvester		No
Anson Engine Museum	Anson Engine Museum, Anson Road, Poynton,	617.34	308.67	231.50	Poynton East and Pott Shrigley	Howard Murray; Jos Saunders		No
Aston Cricket Club	Aston Cricket Club, Sheppenhall Lane, Aston,	367.03	244.69	30.59	Audlem	Rachel Bailey		No
Audlem Cricket Club	Gorse Croft Farm, Bunsley Bank, Audlem,	291.09	194.06	24.26	Audlem	Rachel Bailey		No
British Red Cross	Part 2nd Floor The Gables, 55 Beam Street, Nantwich,	298.26	0.00	223.70	Nantwich North and East	Penny Butterill; Arthur Moran		£34,342
British Red Cross Society	British Red Cross, Waterloo Road, Haslington,	705.32	0.00	528.99	Haslington	John Hammond; David Marren		'
Bunbury Cricket Club	Bunbury Cricket Club, School Lane, Bunbury,	244.69	163.13	20.39	Bunbury	Michael Jones		£350
Central Bible Hammond Trust Ltd T/A Scripture Truth Publicat	31-33, Glover Street, Crewe,	274.80	0.00	206.10	Crewe St Barnabas	Roy Cartlidge		No
Cheshire & Wirral Ornithological Society	R/O Rostherne Mere, Rostherne Lane, Rostherne,	27.48	0.00	20.61	Mobberley	Jamie Macrae		No
Cholmondeley Cricket Club	Cholmondeley Cricket Club, Cholmondeley,	177.19	118.12	14.77	Wrenbury	Stan Davies		No
Cholmondeley Sports & Community Association	Adj. Cholmondeley Arms, Wrenbury Road, Cholmondeley,	114.50	28.63	64.40	Wrenbury	Stan Davies		No
Climb	176, Nantwich Road, Crewe,	795.48	0.00	596.61	Crewe South	Dorothy Flude; Steven Hogben	Yes	No
Congleton Cricket Hockey And Bowling Club	Booth Street, Congleton,	1145.25	880.96	66.07	Congleton West	David Topping		No
Crewe & Nantwich Gymnastics Community Activities Associatio	The Gymnastics Centre, Camm Street, Crewe,	5083.80	0.00	3812.85	Crewe South	Dorothy Flude; Steven Hogben		No
Crewe Bowling Club	Crewe Bowling Club, Stanhope Avenue, Crewe,	877.50	585.00	73.13	Crewe East	Margaret Martin; David Newton; Chris Thorley	Yes	No
Crewe Vagrants Club Fao Mr G Hurst	Newcastle Road Willaston	9846.87	3282.29	1641.15	Willaston and Rope	Brian Silvester	Yes	No
Dyslexia Institute Ltd	7, Hawthorn Lane, Wilmslow,	1992.30	0.00	1494.23	Wilmslow West and Chorley	Gary Barton; Wesley Fitzgerald		No
Knutsford Royal May Day Festival Committee	Royal May Day Committee Mbc Depot, Mobberley Road, Knutsford,	476.32	238.16	178.62	Knutsford	Stewart Gardiner; Olivia Hunter; Peter Raynes		No
Lady Verdin Trust	196, Nantwich Road, Crewe,	679.54	0.00	509.66	Crewe South	Dorothy Flude; Steven Hogben	Yes	No
Lindow Lawn Tennis Club	Tennis Club, Cumber Lane, Wilmslow,	911.25	455.62	113.91	Wilmslow West and Chorley	Gary Barton; Wesley Fitzgerald		No
Lyme Green Settlement Charity	The Office, Lyme Green Park, London Road, Sutton,	806.08	0.00	604.56	Sutton	Hilda Gaddum	Yes	No
Macclesfield Museums Trust	The Heritage Centre, Roe Street, Macclesfield,	3824.30	1912.15	1434.11	Macclesfield Central	Ken Edwards; Janet Jackson		£96000 + £2750
Macclesfield Museums Trust	Silk Museum, Park Lane, Macclesfield,	938.90	469.45	352.09	Macclesfield Central	Ken Edwards; Janet Jackson		'
Macclesfield Ss Heritage Centre Trust	Silk Museum & Park Lane Galleries, Park Lane, Macclesfield,	4076.20	2038.10	1528.58	Macclesfield Central	Ken Edwards; Janet Jackson		'
Manchester Methodist Housing Group	106, Longridge, Knutsford,	842.72	0.00	632.04	Knutsford	Stewart Gardiner; Olivia Hunter; Peter Raynes		No
Nantwich Park Road Bowling Club	Park Road Bowling Club, Park Road, Nantwich,	430.31	286.88	35.86	Nantwich South and Stapeley	Peter Groves; Andrew Martin		No
Nantwich Town Football Club	The Weaver Stadium, Water Lode, Nantwich,	10992.00	3664.00	1832.00	Bunbury	Michael Jones	Yes	£250
Nspcc Fao Maxine O'Sullivan	36-40, Smith Grove, Crewe,	174.04	0.00	130.53	Crewe St Barnabas	Roy Cartlidge		£65,718
Oblate Retreat & Spirituality Centre	89, Broughton Lane, Wistaston,	1190.80	0.00	893.10	Wistaston	Margaret Simon; Jacqueline Weatherill		No
Poynton Royal British Legion Ltd	Poynton British Legion Club, Georges Road West, Poynton,	365.63	0.00	274.22	Poynton East and Pott Shrigley	Howard Murray; Jos Saunders		No
Royal British Legion (Middlewich) Club Ltd	100 Lewin Street, Middlewich,	961.80	0.00	721.35	Middlewich	Paul Edwards; Simon McGrory; Michael Parsons		No
Rspca	Stapeley Grange Wildlife Hospital & Cattery, London Road, Stapeley,	2450.30	0.00	1837.73	Nantwich South and Stapeley	Peter Groves; Andrew Martin	Yes	No
St Johns Ambulance Brigade	23, High Street, Macclesfield,	297.70	0.00	223.28	Macclesfield Central	Ken Edwards; Janet Jackson		No
Survive	156, Nantwich Road, Crewe,	404.59	0.00	303.44	Crewe South	Dorothy Flude; Steven Hogben	Yes	No
Swettenham Club	Swettenham Lane, Swettenham Club, Swettenham,	580.72	0.00	435.54	Brereton Rural	John Wray		No
The David Lewis Centre Fao Mr J Bissett	The David Lewis Training Centre, Mill Lane, Alderley Edge,	2587.70	0.00	1940.78	Mobberley	Jamie Macrae		No
The Museum Trust	Congleton Museum, Market Square, Congleton, Cheshire, CW12 1E	1488.5	744.25	558.19	Congleton West	David Topping		£5,380
The National Trust	Nether Alderley Mill, Congleton Road, Nether Alderley,	91.60	45.80	34.35	Chelford	George Walton		No
The National Trust	Quarry Bank Mill (National Trust), Quarry Bank Road, Styal Wilmslow	114.50	0.00	85.88	Wilmslow Lacey Green	Don Stockton		No
The Sunshine Project International	Unit F6, Scope House, Weston Road, Crewe,	51.53	0.00	38.65	Crewe East	Margaret Martin; David Newton; Chris Thorley		No
The Victoria Club	Victoria Social Club, Victoria Avenue, Holmes Chapel,	1788.75	1490.62	74.53	Dane Valley	Les Gilbert; Andrew Kolker		No
Trustees Of The Owls Nest	Owls Nest, Buxton Old Road, Disley, Stockport,	116.79	0.00	87.59	Disley	Harold Davenport		No
Willowview Education Trust	Land Adj. 121, Warmingham Road, Crewe,	709.90	0.00	532.43	Crewe East	Margaret Martin; David Newton; Chris Thorley		No
Wilmslow Albion Football Club	Wilmslow F C Adj Oakwood Farm, Styal Road, Wilmslow,	253.12	126.56	31.64	Wilmslow Lacey Green	Don Stockton		No
Wilmslow Royal British Legion Club Ltd	British Legion Club, Grove Avenue, Wilmslow,	354.38	0.00	265.79	Wilmslow West and Chorley	Gary Barton; Wesley Fitzgerald		No
Windyway Trust	73, Chestergate, Macclesfield,	1030.50	0.00	772.88	Macclesfield Central	Ken Edwards; Janet Jackson	Yes	No

Totals	61906.48	17277.14	25555.45
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Lyme Green Settlement Charity  
The Office  
Lyme Green Park  
London Road  
Sutton  
Macclesfield  
SK11 0LD

Revenues Service  
PO Box 39, Town Hall  
Macclesfield  
SK10 1HR

Tel: 0300 123 5013  
Email: [brates@cheshireeast.gov.uk](mailto:brates@cheshireeast.gov.uk)  
[www.cheshireeast.gov.uk](http://www.cheshireeast.gov.uk)

**Date:** 28<sup>th</sup> May 2012

**OUR REF:** AW/9019815

**YOUR REF:**

Dear Sir

#### NON DOMESTIC RATES THE OFFICE LYME GREEN PARK

Further to my recent letter informing you that Cheshire East Council is reviewing its discretionary rate relief policy I now write to let you know that the changes being considered will mean that from the 2013-14 financial year the amount of relief you will receive could be reduced.

On setting its policy in December 2008 Cheshire East afforded protection to ratepayers to ensure that they would not receive less relief under the Cheshire East Council policy than they did from the billing authority to whom they paid rates prior to the formation of Cheshire East. This has inevitably led to anomalies where, for example, an organisation with more than one business unit may receive different levels of relief depending on the location of the units within Cheshire East.

In the interests of fairness to all of the ratepayers within Cheshire East one of the changes being considered is the removal of this protection. Your application would then be considered in relation to the new policy, as is the case with any new applications for relief.

You currently receive 20% discretionary rate relief, however under the Cheshire East policy you would not be entitled to discretionary rate relief. At 2012/2013 levels this would mean a reduction of discretionary rate relief from £806.08 to £0.00.

The Cheshire East Cabinet is due to consider the revised policy in the near future. If you have any comments that you would like Cabinet to consider please write to the above address by 11<sup>th</sup> June 2012. Please do not hesitate to contact Andrea Walker on 01270 686073 if you wish to discuss this matter.

Yours faithfully

**Non Domestic Rates Section**



# Lyme Green Settlement

Registered Charity No: 209267

The Office, Lyme Green Park, Macclesfield, Cheshire SK11 0LD

Telephone and Fax: 01260 252666

e-mail: [admin@lymegreensettlement.org.uk](mailto:admin@lymegreensettlement.org.uk)

[www.lymegreensettlement.org.uk](http://www.lymegreensettlement.org.uk)

Our Ref RW/JB

Your Ref AW/90198152

7<sup>th</sup> June 2012

Ms Andrea Walker  
Cheshire East Council  
Revenues Service,  
Non Domestic Rates Section  
PO Box 39  
Town Hall  
Macclesfield  
SK10 1HR

Dear Ms Walker

## **Re: Non-Domestic Rates, The Office, Lyme Green Park**

I thank you for your letter dated 28<sup>th</sup> May 2012 advising us that Cheshire East Council is currently reviewing its discretionary rate relief policy and that from the 2013/2014 financial year, we may see a reduction in the amount of relief which we currently receive. I would like the Cabinet to consider the following comments before making their decision:

Lyme Green Settlement is a registered charity providing purpose built accommodation for severely disabled people. It was originally formed in 1946 to provide nursing care, rehabilitation and accommodation for paraplegic ex-service men and women who had sustained their injuries during conflict. Over the years, with the provision of more care in the community, the focus of the Settlement has changed. We no longer provide nursing care and in addition to ex-service personnel, we now provide accommodation for severely disabled civilians.

The office building is the focal point for the Settlement. The whole use of the building is geared to the provision of services for the disabled residents. The part-time administrator and secretary work from the building and in addition to carrying out the routine clerical work required on the Settlement, much of their time is taken up talking to residents, listening to their problems and discussing their welfare needs with them.

There is an active residents committee on the Settlement and the building is used by them on a regular basis for meetings and organised social functions.

Yours faithfully,

Ms Andrea Walker

SK10 1HR  
Macclesfield  
Cheshire

The Wheelies Sports and Activity Club (a registered charity providing activities for the disabled) also use the office for their meetings as they find it convenient with several of their members living on the Settlement.

Once a month, a visiting clergyman/woman holds a communion service in the building, which is attended not only by residents of the Settlement but also some people who live locally.

No charges are made for any of these uses.

Cheshire East Council uses the building as a polling station at elections. A charge is made for this to cover expenses.

The building is not let out for private functions and is only ever used for community use.

Lyme Green Settlement is a private estate in the sense that, from its junction with London Road, being the closest public highway, all roads, footpaths, street lighting, foul and surface water sewers, water supply pipes and grounds are maintained by the Settlement. All these services are unadopted by the local authority or United Utilities and the cost of repairing these has to be met by the Settlement.

We are a non-profit making organisation with the aim of breaking even each year. So far we have managed to achieve this whilst keeping rent levels at around 75% of current market levels. Any increase in costs such as the loss of the discretionary rate relief has to be met by either a saving elsewhere or an increase in the rent for some of the most severely disabled people in our area.

Your letter states that under the Cheshire East policy we would not be entitled to the 20% discretionary rate relief which we currently receive. I assume, however, that we would be able to re-apply and our case would be considered along with other applications. If this is not the case, then I would strongly urge the Cabinet to reconsider before scrapping the discretionary rate relief entirely.

Yours sincerely



Roy Walker  
Administrator

**Crewe Vagrants Sports Club Limited**

Newcastle Road Willaston Nantwich CW5 7EP  
Registered Number 28975 R  
VAT Number 741 8433 33

11 Mayflower Road  
Nantwich  
CW5 7DP

Ms A Walker  
Cheshire East Council  
Revenue Services  
P O Box 39  
Town Hall  
Macclesfield  
SK10 1HR

1<sup>st</sup> June 2012

Dear Ms Walker

**Ref AW/9100256**

Thank you for your letter of 29<sup>th</sup> May regarding the business rates for the club. Crewe Vagrants Sports Club Ltd is a non-profit making organisation with all the income generated being reinvested in the provision of sporting facilities. It is probably the largest multisport club in Cheshire having hockey, cricket and squash as member sports and being the base for Crewe and Nantwich Rugby Club and South Cheshire Harriers and is also used by Crewe Clarion Wheelers.

The club provides considerable opportunities to local children from 7 years old upwards to join in sport and receive regular coaching, rugby and cricket in particular having large junior sections.

The social and function area provides a much used facility to local residents for parties, wedding receptions, christening parties and funerals as well as being used by several local businesses for conferences and meetings.

If the discretionary rate relief is reduced it would significantly affect our ability to maintain and certainly improve the facilities we are offering to the residents of Crewe and Nantwich.

I am away until 11<sup>th</sup> June but can be contacted on 01606 558552 during office hours after that date.

Yours sincerely,



G Hurst

Hon Chairman

31<sup>st</sup> May 2012

Ms Andrea Walker  
 Cheshire East Council Revenues Service  
 PO Box 39  
 Town Hall  
 Macclesfield  
 SK10 1HR



Climb

Children Living with  
 Inherited Metabolic Diseases

Dear Ms Walker

Re: Your letter AW9104946 dated 28<sup>th</sup> May 2012

Further to our telephone conversation this morning regarding the Non Domestic Rates at 176 Nantwich Road, Crewe.

We currently receive a 10% discretionary rate relief, however, your letter has advised Climb that we may no longer be entitled to this discretionary rate relief for 2013 onwards as we are a national charity.

I would to bring to your attention that Climb is a national charity that deals with families affected by rare inherited metabolic diseases and we have been established in Crewe for over 30 years. During this time we have built up an excellent drop-in and advice service which is particularly directed at families in the Cheshire area that have a member of their family suffering from a metabolic disease.

One of our specialist areas is supporting families who are making claims for Disability Living Allowance and we encourage people to drop in so that we can assist them with their claim.

As we provide such a service to the people of Cheshire we would be very disappointed if we are no longer able to be awarded the 10% discretionary rate relief that we are currently entitled to.

Yours sincerely

Supporting families, changing lives

Steve Hannigan  
 Executive Director

Family Services: 0800 652 3181  
 Administration: 0845 241 2173  
 Facsimile: 0845 241 2174

Email: info.svcs@climb.org.uk  
 Email: enquiries@climb.org.uk

[www.climb.org.uk](http://www.climb.org.uk)

Founded in 1981, Climb is the only charity in the UK to encompass all metabolic diseases with links to organisations and professionals throughout the world

Children Living with Inherited Metabolic Diseases registered in England and Wales as a Registered Charity (1089588) and Company Limited by Guarantee (4267454)

Patrons: Her Grace the Duchess of Westminster and Mrs Julia Timpson Executive Director: Mr Steven Hannigan MIOD, ACMI.

incorporating the



National Information Centre  
 for Metabolic Diseases

**WALKER, Andrea**

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**From:** J Dunning [john-dunning71@sky.com]  
**Sent:** 15 June 2012 12:41  
**To:** BRATES EAST  
**Cc:** Michael Chatwin  
**Subject:** Nantwich Town Football Club - Non Domestic Rates

Dear Ms Walker,

Your letter to the Football Club - Ref AW/9109522 has just been passed to me as the newly appointed Finance Director of the club.

I appreciate that I am just outside of your reply deadline and apologise for not responding by letter.

However I would express the clubs concern about the proposed change in policy which is quite a substantial amount for an organisation of our size.

As you may know we are very much a community based club and as such have achieved FA Charter Standard Community Club status.

We are therefore concerned about how such an increase in our operating costs will impact on our ability to continue to provide the same level of community based and youth activity.

I should be pleased if you would take our comments into account when considering your revised policy.

Regards

John Dunning

Director - Finance  
Nantwich Town Football Club



## Royal Society for the Prevention of Cruelty to Animals

12<sup>th</sup> June 2012  
Our Ref : AB/sjp  
Your Ref : AW/9101899

Non Domestic Rates Section  
Cheshire Borough Council  
Revenues Service  
PO Box 39  
Town Hall  
Macclesfield  
SK10 1HR

By email to: [brates@cheshireeast.gov.uk](mailto:brates@cheshireeast.gov.uk) & Post

Dear Sir

**RE: Non Domestic Rates Stapeley Grange Wildlife Hospital & Cattery**

I am in receipt of your letter dated the 28<sup>th</sup> of May concerning the removal of the 10% discretionary rate relief that to date has been granted in favour of the Society and the work it undertakes in the Cheshire East area.

Although part of a National Charity the Stapeley Grange Wildlife Centre is almost unique being only one of three in the Country that is operated for the benefit of the rate payers in the local area. Without this facility the additional burden of dealing with wildlife casualties would fall on the Local Authority from whom no doubt the local population would demand a response on the grounds of the humane treatment of injured animals, the majority of which would not receive the expert attention available from the RSPCA to relieve suffering.

I would urge your Council therefore to review its policy in this instance and continue to grant the RSPCA the discretionary relief and thus lessening the demand on the Society's charitable receipts to enable it to continue injured and distressed wildlife for the benefit of residents in the Cheshire East Council District.

Yours faithfully

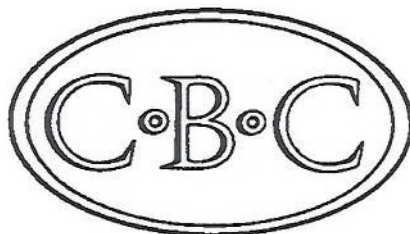
A handwritten signature in dark ink, appearing to read 'Andrew Barnes', written over a light blue horizontal line.

Andrew Barnes

RSPCA, Wilberforce Way  
Southwater, Horsham  
West Sussex RH13 9RS  
Tel 0300 123 0100  
Fax 0303 123 0100  
DX157200 Horsham 7  
A charity registered in  
England & Wales  
Charity no. 219099

[www.rspca.org.uk](http://www.rspca.org.uk)

Patron HM The Queen  
Vice Patron His Grace  
The Archbishop of Canterbury



**CREWE BOWLING CLUB**  
21a Stanhope Avenue, Crewe, Cheshire CW1 6ED  
Telephone: 01270 587914

CHESHIRE EAST COUNCIL  
Revenue Services  
(Non Domestic Rates Section)  
PO Box 39  
Town Hall  
Macclesfield  
Cheshire  
SK10 1HR

Your Ref: AW/9100440

11<sup>th</sup> June 2012

Dear Ms Walker,

**NON DOMESTIC RATES CREWE BOWLING CLUB**

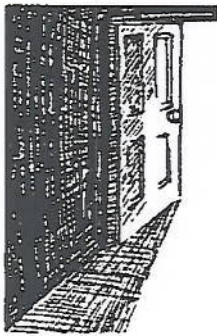
Your letter of 29<sup>th</sup> May 2012 informs us that our discretionary rate relief will be reduced from 75% to 50% from the 2013-2014 year.

We currently receive 100% Small Business Relief. If there is a change in government policy and the S.B.R. is reduced could we be considered for a retention of a 75% discretionary rate relief (or something similar) as compensation for any reduction please.

We are a non profit making bowling club and only have a small amount of income through subscriptions etc. and any additional expenditure makes it very difficult for us to manage our finances.

Yours sincerely

R.G. Lloyd (Secretary)  
Contact Tel. No. 01270 501588



# SURVIVE

abuse counselling

156, Nantwich Road  
Crewe  
Cheshire  
CW2 6BG

01270-253179 Client Contact  
01270-250051 Office

6<sup>th</sup> June 2012

Ms Andrea Walker  
Revenue Services  
PO Box 39, Town Hall  
Macclesfield  
SK10 1HR

Dear Andrea,

Following our conversation today I wish to inform you that the extra 20% discretionary rate relief is vital for the continuation of the charitable business of 'Survive'.

Survive is a counselling service that has been situated in Crewe for 20 years, to the benefit of all people (over 14 ) who have suffered the pain and anguish of being abused in any way, (such as rape and domestic violence). It is a referral and information point for statutory bodies such as the Police and Probation Service, Psychiatrists, GP's and Social Workers. Clients are also able to self refer and are often recommended by other clients.

Survive specialises in counselling adults who disclose that they were abused during their childhood and offer 1-1 support by a fully trained counsellor for as long as the client feels it is necessary, and only asks for donations as payment.

We aim to see new clients for assessment within one week, at that point a counsellor will be allocated and would offer a full, one hour counselling session weekly, at a time suitable for the client and counsellor..

**We are a non profit making counselling charity that runs totally on volunteer staff and donations.**

All the counsellors are unpaid and have undertaken both counselling qualifications and have passed Survive's own in-house counselling training to be thought suitable to effectively help their clients, who are often suffering from Post Traumatic Stress Syndrome.

**'Survive is the only local agency we know of in the area, that offer our level of commitment and expertise to both men and women.**

We, like other charities are suffering from chronic lack of funding and to continue with this work require help and support, without this substantial rate relief Survive will have to close.

Yours faithfully

Sally Lines  
Secretary to 'Survive'.

*Supported by The Morgan Foundation  
Cheshire East Council*

Survive is a Member of the British Association for Counselling and abides by its Code of Ethics and practice.

# SURVIVE

-abuse counselling

## WE ARE HERE TO HELP

We are a voluntary organisation dedicated to helping you if you have been sexually abused. Our team of professional counsellors have specialist training and experience in working with both female and male survivors of Incest and Sexual Assault

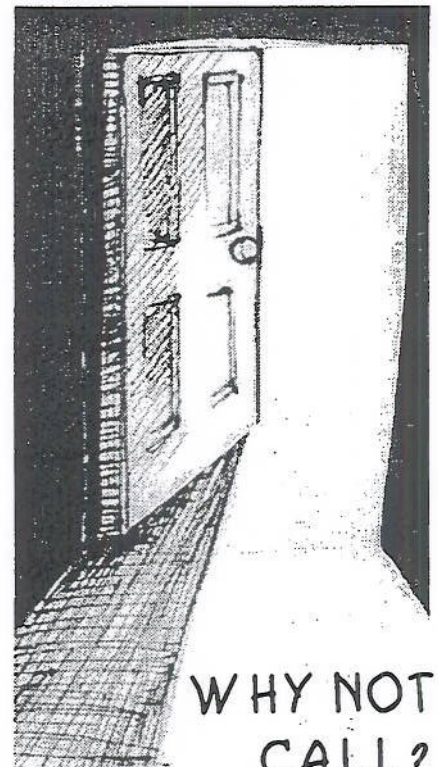
## DON'T FACE IT ALONE

The pain, grief and feelings of shame that often arise as a result of sexual abuse can make it almost impossible to live life to the full

Talking to someone who understands and who will not be shocked or upset by what you say can help you feel a lot better about yourself and your life

## TO US YOU ARE SOMEONE SPECIAL

- we *do* understand
- we *can* help
- we *do* have professional counsellors you can talk to in safety and confidence



WHY NOT  
CALL?

CREWE 01270 253179

**WALKER, Andrea**

---

**From:** Debbie Britcliffe [britcliffed@ladyverdintrust.com]  
**Sent:** 08 June 2012 11:42  
**To:** BRATES EAST  
**Subject:** Non Domestic Rates-Andrea Walker

Good morning,

I am writing in response to your recent correspondence concerning the above and letter reference AW/9102778. As a registered charity providing support to adults with learning disabilities we have been very grateful to receive a substantial amount of relief on our business rates for our office premises. The loss of such relief could result in our increase of charges being passed onto our venerable client group, which would be unfortunate. We have worked alongside the council for many years and would like to see our close working relationship grow every stronger for the years to come with the support for our charity growing further.

I look forward to hearing your decision for the future of this matter in due course.

Regards,  
Debbie Britcliffe MAAT,

*Director of Finance  
The Lady Verdin Trust Limited*

Registered Charity No. 1108111



Supporting Windyway Animal Rescue Centre, Buxton Old Road, Macclesfield

136 Macclesfield Old Road  
Buxton  
Derbyshire  
SK17 6TX

1<sup>st</sup> August 2012

FAO Andrea Walker  
Revenues Services  
PO Box 39 Town Hall  
Macclesfield  
SK10 1HR

Dear M/s Walker

Ref: WINDYWAY TRUST -Non Domestic Rates – Discretionary Rate Relief

73 Chestergate, Macclesfield, Cheshire SK11 6DG

With reference to your letters dated 26<sup>th</sup> March and 28<sup>th</sup> May I would like to request our charity is considered for continuation of the Discretionary Rate Relief we now receive.

We are a Cheshire based charity; the rescue kennels we support are in Macclesfield; our charity shop is on Chestergate in Macclesfield and the majority of our donations (monetary and goods) come from the good people of Cheshire; also the majority of the animals we rescue and rehome are within the Cheshire area. The registered address for our Charity on the Charity Commission's register of charities is 159 Whirley Road, Macclesfield, Cheshire, which is the home of our secretary.

Whilst the Charity Commission's website does state we cover other areas i.e. Derbyshire, Greater Manchester and Staffordshire, we do not discriminate against any animal needing rescue or against a potential new home for animals in our care.

[www.windyway.org](http://www.windyway.org)

**Chairman :** Lord Edward Goodwin, 47 Chatsworth Road, Hazel Grove, Stockport SK7 6BJ  
**Secretary:** Christine Earles, 159 Whirley Road, Macclesfield, Cheshire SK10 3JL  
**Treasurer:** Jacqueline Marriott, 136 Macclesfield Old Rd Buxton, Derbyshire. SK17 6TX  
**Sponsorship Secretary:** Mrs Patricia Barnard, 29 Penningtons Lane, Macclesfield, Cheshire. SK11 3US.

**Registered Charity No. 1108111**

Therefore should an animal from any of these other areas need rescue and care it is not turned away; also should someone from these other areas be willing to give an animal a good a loving home we certainly do not refuse them.

We are a well established charity and extremely well supported within the Macclesfield area.

Our charity shop is very busy with many customers who visit us on a daily basis and I think in these days of austerity we provide a very good service to our Macclesfield customers. If we were to lose any benefit it would severely impact on our charitable work.

We sincerely hope the Cheshire East Cabinet will take these factors into consideration when determining our rate relief status.

Yours sincerely



Jackie Marriott  
Treasurer

[www.windyway.org](http://www.windyway.org)

**Chairman :** Lord Edward Goodwin, 47 Chatsworth Road, Hazel Grove, Stockport SK7 6BJ

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# EQUALITY IMPACT ASSESSMENT FORM



Equality impact assessment is a legal requirement for all strategies, plans, functions, policies, procedures and services under the Equalities Act 2010. We are also legally required to publish assessments.

## Section 1: Description

Department	FINANCE & BUSINESS SERVICES		Lead officer responsible for assessment	PAUL MANNING
Service	REVENUES		Other members of team undertaking assessment	ANDREA WALKER
Date	17/07/2012		Version	1
Type of document (mark as appropriate)	Strategy	Plan	Function	Policy
Is this a new/existing/revision of an existing document (mark as appropriate)	New	Existing	Revision	
Title and subject of the impact assessment (include a brief description of the aims, outcomes , operational issues as appropriate and how it fits in with the wider aims of the organisation)  Please attach a copy of the strategy/plan/function/policy/procedure/service	<b>NNDR Rate Relief Policy Revision</b>  Discretionary Rate Relief for Charitable and Non-Profit making organisations was previously granted at different levels by the three legacy district Councils. At reorganisation, Cheshire East introduced its own Rate Relief policy. Organisations that had previously been granted a lower level of Relief than the Cheshire East policy allowed were granted additional Relief. Organisations that had previously been granted a higher level of Relief than that awarded by Cheshire East had their position protected. The revision is required in order to balance the inequities in awards of Rate Relief in relation to different areas of Cheshire.			
Who are the main stakeholders? (eg general public, employees, Councillors, partners, specific audiences)	Charitable and 'Non Profit making' organisations and their stakeholders			

# EQUALITY IMPACT ASSESSMENT FORM

## Section 2: Initial screening

<b>Who is affected?</b> (This may or may not include the stakeholders listed above)	Charitable and 'Non Profit making' organisations and their stakeholders										
<b>Who is intended to benefit and how?</b>	Other Charitable and 'non-profit making' organisations will no longer be disadvantaged Council Tax payers – reduction in Cheshire East expenditure										
<b>Could there be a different impact or outcome for some groups?</b>	Yes										
<b>Does it include making decisions based on individual characteristics, needs or circumstances?</b>	No										
<b>Are relations between different groups or communities likely to be affected?</b> (eg will it favour one particular group or deny opportunities for others?)	No										
<b>Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?</b>	No.										
<b>Is there an actual or potential negative impact on these specific characteristics? (Please tick)</b>  Due to the nature of the organisations affected, there may be an impact on a number of the following characteristics depending on the organisations' particular area of work. We have identified that the organisations may assist groups which reflect the following characteristics											
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Marriage & civil partnership	<input type="checkbox"/>	<input type="checkbox"/>	Religion & belief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Carers	<input type="checkbox"/>	<input type="checkbox"/>

# EQUALITY IMPACT ASSESSMENT FORM

Disability	<b>Y</b>	N	Pregnancy & maternity	Y	N	Sex	<b>Y</b>	N	Socio-economic status	Y	N
Gender reassignment	Y	N	Race	Y	N	Sexual orientation	Y	N			
What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts										Consultation/involvement carried out	
										Yes	No
Age	<p>Organisations supporting groups for whom any of the relevant characteristics are subject to impact have been notified of the impact at an early stage and a number have responded. The responses will be considered by Cabinet members when the policy is reviewed. Groups representing the specific characteristics indicated above have been identified and details and further information is attached for each.</p> <p>Support and advice will be offered through engagement with CVS in terms of signposting alternative channels for funding where this is available. For example, CVS are liaising with Sport Cheshire to support sporting clubs that may be affected by a revised policy.</p> <p>Cheshire East Council may consider alternative, shorter term relief in certain circumstances where other funding is not available. This may include local discretionary relief or hardship relief.</p>										
Disability											
Gender reassignment											
Marriage & civil partnership											
Pregnancy & maternity											
Race											
Religion & belief											
Sex											
Sexual orientation											
Carers											
Socio-economic status											

## EQUALITY IMPACT ASSESSMENT FORM

Proceed to full impact assessment? (Please tick)	Yes	No	Date 17/07/2012
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Please publish this completed EIA form on your website

# CHESHIRE EAST COUNCIL

## CABINET

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**Date of meeting:** 2 December 2008  
**Report of:** Interim Chief Finance Officer  
**Title:** Discretionary Rate Relief Policy

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### **1.0 Purpose of Report**

- 1.1 To establish a discretionary rate relief policy for Business Rates in respect of charitable and non-profit making organisations, rural businesses and hardship cases.
- 1.2 Applications and individual decisions need to be made prior to billing for 2009/10 to ensure that reduced bills can be issued.

### **2.0 Decision Required**

- 2.1 To agree the policy detailed in Appendix A for charitable, non-profit making and rural applications.
- 2.2 To agree the rural settlement list detailed in Appendix B.
- 2.3 That applicants applying for discretionary relief only and with a rateable value below £10,000 be required to apply for Small Business Relief.
- 2.4 To award delegated powers to the Borough Treasurer & Head of Assets to determine applications in accordance with the agreed policy.
- 2.5 That consideration is given to allow applicants who would receive less relief under the new policy to retain their existing award until any future change in circumstances.
- 2.6 That applications that fall outside the agreed policy to be determined by the Borough Treasurer & Head of Assets in conjunction with recommendations from senior revenues officers.
- 2.7 That appeals against either a decision not to award relief or the level of relief awarded be considered by the Borough Treasurer & Head of Assets in consultation with the Portfolio Holder for Resources. If still not resolved, the case should be considered by Cabinet and appropriate amendments made to the policy if required, following the decision.
- 2.8 That all applications for hardship relief are considered on a case by case basis by the Borough Treasurer & Head of Assets in consultation with the Portfolio Holder for Resources and any appeals to be considered by Cabinet.

### 3.0 Financial Implications for Transition Costs

- 3.1 Minimal but all existing applicants will have to be advised of the new policy and invited to make fresh applications.

### 4.0 Financial Implications for 2009/10 and beyond

- 4.1 Actual amounts for 2009/10 are not yet available as the Business Rates multiplier has not been confirmed. However, based on 2008/09 costings, the total amount of discretionary relief awarded, if the categories were harmonised between the three former authorities, would be in the region of £278,000 at a cost of £143,000 to Cheshire East (the remainder is funded by Government). This represents a saving of around £9,000.
- 4.2 If it was decided to allow existing applicants to maintain their current levels of relief, rather than losing out, this would mean an additional £47,000 being awarded at a cost of £25,000. Consequently to offer this protection would only result in extra costs of £16,000.
- 4.3 If all applicants within a particular category were to be awarded the highest level of relief, this would cost the authority an additional £285,000.

### 5.0 Background and Options

#### 5.1 Rate Reliefs Available

**Small Business Rate Relief** - this is a statutory scheme introduced in 2005 and billing authorities have no discretion to vary the amount awarded. Small Business Relief (SBR) is available for ratepayers occupying single properties with a rateable value up to £10,000. Ratepayers whose rateable value is below £5,000 receive 50% relief, whilst those with a rateable value between £5,000 and £9,999 receive relief on a sliding scale which decreases for 1% for every £100 of rateable value. Ratepayers occupying properties with a rateable value over £15,000 or those not eligible for SBR pay a supplement to fund the scheme. Ratepayers in single properties with a rateable value between £10,000 and £15,000 can apply not to pay for this supplement. All relief granted is funded in full by the Government.

**Discretionary Rate Relief** - there are 3 types of discretionary rate relief that authorities can award:

- Relief for Charitable and Non-profit making organisations
- Rural Settlement Relief
- Hardship Relief

**Charitable and Non-profit making organisations** - registered charities (including those exempt from registration) and registered Community Amateur Sports Clubs (CASC's) receive 80% mandatory relief, funded in full by Government. Authorities can award a 'top up' of anything up to 20% of which only 25% is funded by Government with the remaining 75% funded locally.

Non-profit making organisations including sports clubs can apply for up to 100% discretionary relief. 75% of this relief is funded by Government with 25% funded locally.

**Rural Settlement Relief** - authorities have to draw up a rural settlement list based on rural communities of 3000 population or less in a designated rural area (outlined by statute). Certain properties in those areas can apply for relief:

Sole General Store or Post Office with a rateable value (RV) of £7,000 or lower	50% mandatory	up to 50% disc
Sole Public House or Petrol Filling Station with a RV of £10,500 or lower	50% mandatory	up to 50% disc
Any food shop (other than catering or confectionary) with a RV of £7,000 or lower	50% mandatory	up to 50% disc
Any other business with a RV of £14,000 or lower	-	up to 100% dis

To qualify for discretionary relief, the authority must be satisfied that the property is used for purposes which are of benefit to the local community and it would be reasonable to award relief, having regard to the interests of people liable to pay its Council Tax. 75% of any discretionary relief is funded by the Government with 25% funded locally.

**Hardship Relief** - Section 49 of the Local Government Finance Act 1988 gives a billing authority power to reduce or remit the amount of Business Rates a person is liable to pay. They must be satisfied that:

- the ratepayer would sustain hardship if the authority did not grant relief and
- it is reasonable to grant relief, having regard to the interests of people liable to pay its Council Tax

75% of relief is funded by Government with 25% funded locally.

## 5.2 Current Situation

Across the three existing authorities, there are 459 Charitable Relief cases, 97 Non-profit making cases and 34 Rural Settlement Relief cases. £3.8m is currently being awarded, of which £289,000 is discretionary, costing the authorities £152,000.

The three existing authorities deal with applications in different ways. At Crewe and Nantwich, applications are decided by Senior Officers in accordance with a policy resolved by members. At Congleton, decisions are usually made by the Portfolio Holder (Resources) although the Chief Financial Officer can make some decisions. All cases at Macclesfield are considered by a Members Revenues Panel. Hardship applications are considered on a case by case basis in all authorities – at Congleton and Macclesfield these are decided by Members, at Crewe and Nantwich delegated powers have been given for decisions to be made by the Executive Director (Finance) in consultation with the Portfolio Holder (Finance).

## 5.3 Details

When drawing up a proposed policy for Cheshire East, categories have been identified for common areas of applications and possible levels of discretionary relief have been suggested – see appendix A. As far as possible, this has been

done by comparing existing awards given by the 3 authorities. Rateable Value (RV) limits have been used in some categories to differentiate between smaller and larger organisations. For properties such as museums, the charging of admission has been used to ensure the smaller trusts are not treated in the same way as larger organisations. Sports Clubs have all been categorised by RV and their operation (or not) of a licensed bar. In all categories, local is defined as any charity or organisation whose area of operation is limited to Cheshire and/or where accounts are prepared just for the local branch. The wider definition for the whole of Cheshire should take into account some charities that operate on the fringes of the Cheshire East area but are of benefit to Cheshire East residents e.g. hospices.

Discretionary only cases have all been categorised by RV using £10,000 as the divider, the same as the legislative qualification for Small Business Relief (SBR). Applicants with RV's below £10,000 will be required to apply for SBR before the full entitlement is given (see category summary for details) which will result in savings for Cheshire East. SBR is applied first to cases and funded in full by Government (relief varies from 50% down to 0.1%, depending on RV) and hence any awards of discretionary relief will be lower (e.g. if someone receives 50% SBR, their award of 100% discretionary relief will only be on the remaining 50%).

In addition, cases have been identified where applicants will lose relief and consequently it has been assumed that protection for these will be required and this is reflected in the costings shown on Appendix A. This protection will continue until there is a change in circumstances for the applicant.

#### 5.4 **Costs**

Spreadsheets are available showing all cases and the indicative costs of the proposed policy compared to current awards. Costings are based on RV x 2008/09 multiplier for ease and speed of calculation, and take no account of transitional relief or current awards of SBR. There is a summary sheet (Appendix A) which includes cases where full protection is offered for any applicants who are potentially worse off, which adds around £25,000 to the total cost for the authority.

Costings have also been drawn up to show the additional amounts that would become payable if the largest percentage of the 3 authorities in each category was used e.g. the new policy recommends 25% be given to large sports clubs with a bar (category 23) but one authority currently awards 75% to those. If the higher percentage were awarded in all categories there would be an extra cost of £285,000 to Cheshire East.

#### 6.0 **Overview of Day One, Year One and Term One Issues**

A policy needs to be established prior to the 2009/10 financial year to ensure that existing applicants can be informed of the new policy and invited to make fresh applications to the Cheshire East Council. They have all been informed that their existing awards will cease at 31 March 2009 (as required by legislation) and understandably, many of them are concerned about what they may have to pay in the new financial year. An early decision will also allow time for applications to be sought, processed and correct bills issued during March 2009.

## **7.0 Reasons for Recommendation**

To be able to maintain assistance to charitable, non-profit making organisations and rural businesses, by establishing a Discretionary Rate Relief policy.

### ***For further information:-***

*Portfolio Holder: Councillor F Keegan*

*Officer: Barry Cooper*

*Tel No: 01270 537173*

*Email: [barry.cooper@crewe-nantwich.gov.uk](mailto:barry.cooper@crewe-nantwich.gov.uk)*

### ***Background Documents:-***

*None*

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Categories for Charitable Rate Relief		Mand %	Disc %
1	Village Halls, Community Centres, Meeting Rooms	80%	20%
2	Scout, Guide and Youth Organisations	80%	20%
3	Voluntary Schools - Aided & Special Agreement	80%	-
4	Schools/Colleges with charitable status (inc. Foundation schools)	80%	-
5	Nursery Schools	80%	20%
6	Charity Shops - local charity (within Cheshire and with own accounts)	80%	20%
7	Charity Shops - national charity	80%	-
8	Drop in/ Advice Centres (any charity - open access for members of the public)	80%	20%
9	Local charity admin centre (within Cheshire and with own accounts)	80%	20%
10	National Charity admin. Offices	80%	-
11	Sports & Social Clubs with charitable status - with bar and with RV above SBRR threshold	80%	-
12	Sports & Social Clubs with charitable status - with bar and RV under SBRR threshold	80%	5%
13	Sports Clubs with charitable status - no bar and RV over SBRR threshold	80%	-
14	Sports Clubs with charitable status - no bar and RV under SBRR threshold	80%	20%
15	CASC - with bar and RV above SBRR threshold	80%	-
16	CASC - with bar and RV under SBRR threshold	80%	5%
17	CASC - no bar	80%	20%
18	Museum/Historical House/Heritage Centre (free admission)	80%	20%
19	Museum/Historical House/Heritage Centre (admission charged)	80%	10%
20	Other registered charities - local only (within Cheshire & with own accounts)	80%	20%
21	Other registered charities - national	80%	-
22	Registered Friendly Societies - Social Housing	80%	-
<b>Totals</b>			
<b>Funded by Government (25%)</b>			
<b>Funded by Authority (75%)</b>			
<b>Non-profit making Organisations - Discretionary Only</b>			
23	Sports/Social Clubs - with bar and RV above SBRR threshold		25%
24	Sports/Social Clubs - with bar and RV under SBRR threshold		50%
25	Sports/Social Clubs - no bar and RV above SBRR threshold		25%
26	Sports/Social Clubs - no bar and RV under SBRR threshold		100%
27	Other non-registered charities - RV above SBRR threshold		25%
28	Other non-registered charities - RV under SBRR threshold		100%
<b>Totals</b>			
<b>Funded by Government (75%)</b>			
<b>Funded by Authority (25%)</b>			
<b>Rural rate Relief</b>			
29	Sole Post Office or General Store	50%	50%
30	Sole Public House	50%	50%
31	Sole Petrol Filling Station - on an A road	50%	50%
32	Sole Petrol Filling Station - not on an A road	50%	50%
33	Food Shop	50%	50%
34	Discretionary Only		30%
<b>Totals</b>			
<b>Funded by Government (75%)</b>			
<b>Funded by Authority (25%)</b>			

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**CHESHIRE EAST COUNCIL****REPORT TO: CABINET**

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<b>Date of Meeting:</b>	17th September 2012
<b>Report of:</b>	John Nicholson – Strategic Director, Places and Organisational Capacity. Lisa Quinn – Director of Finance and Business Services
<b>Subject/Title:</b>	Connecting Cheshire Superfast Broadband Partnership Arrangement
<b>Portfolio Holder:</b>	Councillor David Brown, Deputy Leader and Cabinet Member for Sustainable Communities. Councillor Jamie Macrae, Cabinet Member for Prosperity and Economic Regeneration.

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**1.0 Report Summary**

- 1.1 This report provides a progress update on the development and delivery of the Cheshire and Warrington Local Broadband Plan.
- 1.2 The Connecting Cheshire project has been progressed to the transition point from a development phase into a delivery phase for the provision of superfast broadband services in areas of market failure, largely our outlying rural areas.
- 1.3 The conclusion of procuring a telecommunications delivery partner, award of ERDF grant funding and approval of State Aid taking place over the coming months will mark the beginning of the £39m project.
- 1.4 The project is being developed in partnership with the Councils of Cheshire West and Chester, Warrington and Halton. Approval is sought to enter into a partnership arrangement with the local authorities and for Cheshire East Council to be the accountable body and principal delivery agent.

**2.0 Decision Requested**

- 2.1 Approval is sought for the following decisions:
  - 1. Cheshire East Council entering into a partnership arrangement with Cheshire West and Chester Council, Warrington Borough Council and Halton Borough Council for the delivery of the Connecting Cheshire Superfast Broadband Project.
  - 2. Cheshire East Council leading the partnership and fulfilling the role as the accountable body and principal delivery agent of the Connecting Cheshire Partnership.

3. Recommendations to be taken to Cabinet and Full Council, as appropriate, for ratification. .

### **3.0 Reasons for Recommendations**

- 3.1 To progress 5<sup>th</sup> March 2012 Cabinet decisions
- 3.2 Working in partnership will enable efficient delivery of the project maximising the public sector investment through collaborative working, providing access to new resources and sharing risks across the Partnership.

### **4.0 Wards Affected**

- 4.1 All

### **5.0 Local Ward Members**

- 5.1 All

### **6.0 Policy Implications**

- 6.1 The case for investment into Superfast Broadband for Cheshire East has been established in the following key policy documents:
  - Cheshire East Business Plan 2012/15 (2012)
  - Cheshire East Sustainable Community Strategy: Ambition for All (2010)
  - Cheshire East Economic Development Strategy (2011)
  - Cheshire East ICT Strategy (2011)
  - Cheshire Crewe Vision All change for Crewe (2011)
  - Cheshire and Warrington Local Enterprise Partnership Business Plan (2012).

### **7.0 Connecting Cheshire partnership, Superfast Broadband Collaboration Agreement**

- 7.1 The Connecting Cheshire Partnership is a partnership arrangement. The nature of the partnership is to deliver the superfast broadband project including infrastructure provision and a business support scheme, to encourage take up of the Broadband Service once the infrastructure has been installed.
- 7.2 Cheshire East Council would act as the Lead Partner and Accountable Body for entering into the contract with the successful commercial operator on behalf of the Connecting Cheshire partnership, however, there will be a collaboration agreement in place between the partners which will ensure that each Partner meets their financial obligations.
- 7.3 The partnership arrangement has been developed and endorsed by legal and Democratic Services and is underpinned by a Collaboration Agreement and Finance Protocol derived from the Council Constitution and agreed between

the parties. The Collaboration Agreement has been developed under the following headings to provide for completeness of definition of responsibilities and obligations:

- Definitions
- Purpose of this Agreement
- Connecting Cheshire Partnership Objectives
- Marketing Commitments
- Governance
- Principles of Operation
- Withdrawal from the Connecting Cheshire Partnership
- Status of this Agreement
- Governing Law and Jurisdiction
- Appendix 1: The Partners

7.4 The partnership arrangement will legally bind the partners to provide funding contributions for infrastructure, business support and project management for the duration of the project, which is anticipated to have a total cost of £39m.

#### **8.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

8.1 The Connecting Cheshire Partnership has secured £3.24m funding from Broadband Delivery UK (BDUK) for infrastructure investment to which the local authorities have committed match funding through their 2012/13 capital programmes.

8.2 The Council approved the investment of £1.2 million profiled over three years to provide for 90% superfast broadband coverage across the Borough, with an ambition to achieve 100% coverage by leveraging European Grant Funding.

8.3 To extend the rollout of Superfast Broadband, the Partnership has recently submitted an application to the European Regional Development Fund (ERDF) for £15m to support investment in faster broadband infrastructure. The grant will be matched by similar investment from the private sector.

8.4 The total value of the project is expected to be £39m. Grants and contributions will be paid by the Council in accordance with the policies determined under Finance Procedure Rule. The Council as the accountable body will be responsible for managing finance and funding on behalf of the partnership.

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

9.1 Section 2 of the Local Government Act 2000 gives Local Authorities power to take steps which they consider are likely to promote the economic, social or environmental well being of their area - or its inhabitants. However, no action can be taken which would contravene any specific statutory prohibition,

restriction or limitation. Regard must also be had to the Community Strategy. The actions proposed in this report fall within this power.

- 9.2 Given the significance of the project, the need for a financial contribution of up to £1.2m from the Council, and in view of the Council having accountable body status, it has agreed between the Partners that Cheshire East will seek approval from Cabinet and full Council prior to entering into the partnership arrangement. The other Partners are similarly seeking formal ratification under the appropriate terms of each of their constitutions.
- 9.3 It should be noted that the European Commission, Central Government and suppliers on the Broadband Delivery UK (BDUK) framework have been in talks about the detail of the Commission granting approval for a UK wide State Aid umbrella scheme. Such approval from the Commission has been expected since April 2012, but complications have delayed matters until after October.

## **10.0 Risk Management**

- 10.1 Appropriate and robust financial accounting and reporting systems will be put in place and these will assist with early identification of any financial variances from the planned expenditure and funding.
- 10.2 An annual report will be presented to the Cabinet Member for Sustainable Communities, outlining how sums have been used and the key outcomes and achievements. The report will also review the affordability and continued relevance of the arrangement to Service policies and corporate objectives and seek appropriate Business Plan approval.
- 10.3 Regular reports on progress and outcomes will be provided to the project board, Head of Service and Cabinet Member for Sustainable Communities.
- 10.4 Heads of Service will report on the outcomes achieved through the provision of support to outside bodies on an annual basis to the appropriate Member Group and Cabinet Member, with interim reporting on an exception basis or where the sums involved are significant.

## **11.0 Background**

- 11.1 Cabinet on the 5<sup>th</sup> March 2012 resolved:
1. That the Cheshire Warrington and Halton Local Broadband Plan be received and endorsed.
  2. That the Council investment of £1.2 million, profiled over three years to provide for 90% superfast broadband coverage across the Borough, with an ambition to achieve 100% coverage by leveraging European Grant Funding, be noted.
  3. That approval be given for the Strategic Director Places and Organisational Capacity, and the Director of Finance & Business Services,

in consultation with the Cabinet Member for Performance and Capacity, to be given delegated authority to make necessary decisions on approved matters to enable the delivery of the Superfast Broadband project.

4. That approval be given for the Director of Finance and Business Services, the Borough Solicitor and the ICT Manager to prepare, negotiate and sign off legal documentation required between the Council and the Secretary of State, and the Connecting Cheshire Partnership, as required.
- 11.2 The Councils across Cheshire East, Cheshire West & Chester, Halton and Warrington are forming the Connecting Cheshire Partnership tasked with the delivery of a c£39m project to bring faster broadband speeds for our businesses and indirectly our residents by 2015. The project is a real opportunity to give the sub-region a much needed economic and social boost; a recent study estimated full coverage of Superfast Broadband (SfB) would generate a gross impact of £1.3bn to the economy and create 11,000 jobs over the next 15 years across our sub-region.
- 11.3 By working in the partnership with Cheshire West and Chester Council, Warrington Borough Council, and Halton Borough Council the Council will to reduce the management costs of delivering the project and to make best use of knowledge and skills available. Furthermore by going to market with a larger geographical area will present a more attractive investment case to the suppliers, than a single unitarily authority alone.
- 11.4 In accordance with the Local Broadband Plan, a primary objective of SfB rollout is to increase the economic prosperity of the sub-region by ensuring as many businesses as possible have access to superfast broadband services, in particular small and medium sized enterprises (SMEs). An equally important objective is to improve broadband speeds to communities in rural areas which have hitherto not been commercial viable for private sector investment in faster and reliable broadband speeds.
- 11.5 A key milestone of the project is to appoint a telecommunications provider from the Broadband Delivery UK (BDUK) delivery framework, to undertake the publicly funded rollout of SfB infrastructure across Cheshire, Halton & Warrington. BT and Fujitsu have now signed the delivery framework, and the first sub-regions to use it have commenced procurement. It is expected our Invitation to Tender (ITT) will be published in October as part of the BDUK project 'pipeline', where we are ninth in the queue of forty projects.
- 11.6 The project is expected to commence in March 2013 (subject to procurement and state aid), with capital investment completed by December 2014, and infrastructure project completion by June 2015. Economic modelling indicates the project will increase the availability of Superfast Broadband services from 70% of homes and businesses to over 94% coverage.

#### Funding Update

- 11.7 The £15m ERDF grant submission made in July 2012 focuses on the delivery of SfB connectivity to 88% of eligible Small and Medium Sized Enterprises (SMEs) in known areas of market failure such as our outlying rural areas; and will provide a business support programme to maximise take-up and exploitation of technology enabled by SfB e.g. high definition video conferencing, 'cloud computing', telecare, international trade and e-commerce. The submission is being appraised and it is expected to be endorsed by the Local Management Committee (LMC) of the Northwest Operational Programme in October 2012.
- 11.8 The investment will create and safeguard jobs and generate increases in Gross Value Added (GVA) to Cheshire, Halton and Warrington. It will build a digital infrastructure platform for growth and prosperity. Over 6,485 additional eligible small businesses will receive connectivity to SfB; and approximately 29,600 eligible businesses across Cheshire, Warrington and Halton will gain access to a SfB business support programme.

#### State Aid

- 11.9 The Government State Aid Notification to the European Commission is expected to be approved in September 2012, once new guidance from the European commission has been released. The submission of the Connecting Cheshire State Aid notification to Broadband Delivery UK (BDUK) will commence inline with the procurement activity.

#### Campaign for Better Broadband

- 11.10 The Connecting Cheshire Partnership is encouraging both businesses and communities to register their demand for SfB to help build our case for investment. With over 3,000 registrations received to date and a network of 100 Digital Champions now recruited across the sub-region we are well placed to embrace the rise in availability of superfast broadband services. The project team is working with the local media and they are enthusiastically supporting our campaign.

#### **12.0 Access to Information**

- 12.1 Background papers relating to this report can be inspected by contacting the report writer:

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## **CHESHIRE EAST COUNCIL**

### **CABINET**

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**Date of Meeting:** 17 September 2012

**Report of:** Strategic Director – Places and Organisational Capacity  
**Subject/Title:** Inclusion of Streetscape and Parking Maintenance  
Activities Within the Highway Services Contract  
**Portfolio Holder:** Cllr Rod Menlove

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#### **1.0 Report Summary**

- 1.1 This report seeks Cabinet approval to extend the scope of the Highways Services Contract by the inclusion of existing Streetscape and Parking Maintenance (excluding parking enforcement) activities that are currently undertaken directly by the Council (refer to 10.2 and 10.6 for full details). The activities being considered are those that are predominantly undertaken within the highway boundaries or those activities (such as grounds maintenance) that are similar in nature to cyclical and routine activities undertaken within the scope of the Highways Services Contract currently managed by Ringway Jacobs. The report outlines the benefits and risks of extending the scope of the Highways Services Contract. The report also seeks delegated authority to commence discussions with Ringway Jacobs that will ultimately aim to result in the new service arrangements commencing on 1 January 2013.
- 1.2 It is anticipated that the increased contract scope will realise immediate savings in the last quarter of 2012-2013 in excess of £50,000, increasing to a full-year saving of over £250,000 during 2013/14 on existing annual revenue budgets within Streetscape, rising to a value of circa £450,000 per annum from 1 April 2014 after the first full year of operation, without any reduction in existing service standards and any compromise on ongoing initiatives. Parking Maintenance will see efficiencies generated from combining the management activities with those undertaken within the Highways Team, seeing works associated with Traffic Regulation Orders and maintenance activities that are common to both areas being combined as one operational team activity without a reduction in service standards. It is anticipated that after the first full year of operation, efficiencies generated will be in excess 7.5% of current operating costs.
- 1.3 Members attention is drawn to paragraph 10.13 which describes how these proposals are intended to be complimentary to the Council's localism agenda.

## **2.0 Decision Requested**

- 2.1 Cabinet is requested to approve the (subject to no challenge being received during the Voluntary Ex-ante Transparency Notice period commonly referred to as the VEAT notice) extension of the scope of the Highways Services Contract to include Streetscape and Parking Maintenance activities as outlined in 10.2 and 10.6 below.
- 2.2 To approve the publication of a procurement VEAT Notice
- 2.3 To approve the development of a detailed activity programme that will engage with elected members, existing employees and their Trade Union representatives with a view to achieving a commencement date of 1 January 2013 for the new service delivery arrangements.
- 2.4 To note that extending the scope of the Highways Services Contract will trigger the automatic application of the TUPE Regulations which will affect a transfer of a number of existing Council employees within the Streetscape, Parking and Fleet Services to Ringway Jacobs.

## **3.0 Reasons for Recommendations**

- 3.1 Due to the ever increasing financial pressures that the Council is facing, new and innovative ways of service delivery are required that will allow the Council to achieve 'more for less', ensuring that existing service provision continues to the same high standards as delivered previously whilst being sustainable in future years.

## **4.0 Wards Affected**

- 4.1 All Wards are affected by the proposal.

## **5.0 Local Ward Members**

- 5.1 All Ward Members are affected by the proposal.

## **6.0 Policy Implications including – Carbon Reduction - Health**

- 6.1 The existing Highways Services Contract requires Ringway Jacobs to carry out the services in a manner that achieves greater value for money for the Council, year on year, by reducing costs and delivering the Services more efficiently whilst seeking to maximise the achievement of the Council's Strategic Objectives throughout the contract period. Our Strategic Objectives include 'limiting carbon emissions', which ensures that Ringway

Jacobs are required to demonstrate that they are achieving this. Additionally, in support of this, Ringway Jacobs must also maximise the 'achievement of the objectives set out in the Local Transport Plan'. The Local Transport Plan includes Priority Policies that work towards carbon reduction, through for example, minimising the future need to travel and through encouraging technological development in transport services in partnership with operators.

- 6.2 Ringway Jacobs have already embraced the Council's objectives associated with well being and carbon reduction and in the short time they have been in operation, have become an integrated member of the Carbon Reduction Group. The same approach will apply to all services included within the increased scope of contract.
- 6.3 An existing performance framework exists which requires Ringway Jacobs to measure performance in this area with challenging targets established for energy reduction.

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 The services which are included within the scope of works for the Highways Services Contract and undertaken by Ringway Jacobs as core services have an annual value of around £14 million (capital and revenue).
- 7.2 The current 2012-13 annual combined value of the Streetscape services associated with Grounds Maintenance and Street Cleansing activities is around £5.5 million.
- 7.3 The new arrangement will deliver immediate savings in the last quarter of 2012/13 in excess of £50,000, increasing to a full year saving of over £250,000 during 2013/14 on existing annual revenue budgets within Streetscape, rising to a value of circa £450,000 per annum from 1 April 2014 after the first full year of operation when compared to existing Service costs. This will be achieved through the removal of existing casual/agency staff combined with operational efficiencies secured during the first full year of operation, generating savings of around 7.5% as per the contractual commitment contained within the Highways Services Contract. In addition to these initial savings, future year-on-year savings of 3% per annum will be secured from innovation and efficiency gains. The potential additional 2013/14 & 14/15 savings referred to above (circa £400,000), over and above the £50,000 savings already secured against the approved 2012/13 budgets, will be reported as part of the Business Planning process for 2013/14 onwards and will be clarified after the detailed work associated with increasing the Contract scope is completed (as referred to in 7.2 above).
- 7.4 Parking Maintenance will benefit from efficiencies generated from combining the Parking Maintenance activities with those similar activities

undertaken by Ringway Jacobs as part of the Highway Services Contract. Over the course of the first full year of operation, the Council will benefit from efficiency improvements that will see a reduction in running costs without any reduction in service standards. It is anticipated that after the first full year of operation, efficiencies generated from service delivery will reduce the current financial pressure across the Service by around 7.5% combined with a further year on year reduction of 3% per annum associated with future innovation and efficiency gains. Again, additional future savings referred to above, the approved 2012/13 budgets, will be reported as part of the Business Planning process for 2013/14 onwards and will be clarified after the detailed work associated with increasing the Contract scope is completed (as referred to in 7.2 above).

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

- 8.1 The Council has entered into the Highways Services Contract (the Contract) with Ringway Jacobs. The term of the Contract is five years with the opportunity to extend for a further two years (depending on performance and at the Council's ultimate discretion). The Contract commenced early October 2011.
- 8.2 The Council, as Highway Authority for the Cheshire East area, has numerous powers and duties under the Highways Act 1980 to carry out highway associated activities including maintenance, improvement and repair work on the highway network all of which were included within the original contract scope as set out in the OJEU Procurement Notice (the Notice) for the Contract. None of the duties discharged by Ringway Jacobs on behalf of the Council relieve the Council of those powers and duties and the Contract contains contractual remedies that can be exercised in the event that Cheshire East Highway's fails to discharge the functions.
- 8.3 The Highways Services Contract sets out very clearly the statutory obligations of the Council the performance of which, are delegated to Ringway Jacobs along with the protocol for the discharge of other statutory obligations of the Council.

Substantially amending the scope of a contract post award of tender can lead to a breach of the procurement rules. A substantial change in scope could amount to an award of a new contract which could then be challenged as an unlawful award of contract. Some elements of the increased service e.g. verge and hedge management are specifically within the scope of the Contract. However other elements, namely street cleansing and grounds maintenance activities in parks and open spaces amount to a technical breach of the Notice. Although the wording within the Contract was widely drafted with a catch all phrase of 'any additional services as may be requested by the Employer from time to time' this would be legally construed in the light of the overall content of the Notice and the categories of services included within that Notice. Although adding the services to the Contract would not result in the value of the Contract exceeding the estimated financial contract value given in the Notice this is not the only

issue to consider when interpreting if a change in scope amounts to an award of a new contract that could be challenged as an unlawful award of contract.

- 8.4 Advice was sought from Bevan Brittan, the external solicitors involved in the procurement of the Highway's Contract, as to the potential risk of a challenge that could result from any perceived change in the scope and value of the contract. Bevan Brittan has provided clear advice as to what is unequivocally within scope and what is in strict legal terms was outside scope. A commercial view was proffered as to the risk of challenge by the unsuccessful tenderers; this was considered to be low. However, a challenge can be brought by anyone, in practical terms only parties that might stand to benefit bring claims, however in the given situation the Council needs to consider the Unions and Members and would be unwise to proceed in the event that there was not universal support for the action. Although it is envisaged that the risk of challenge from both internal and external sources is minimal, the proposed increased scope of activities will result in a variation to the existing arrangement that is sufficiently material to fall beyond the scope of works originally advertised and with hindsight should have been included on the original published OJEU Notice. It is not only original tenderers that could challenge the award organisations that are able to provide street cleansing and/or park maintenance might also wish to challenge, any one could raise a complaint with the EU Commission which would pursue the Council of its own volition.
- 8.5 It has been suggested that prior to the Council extending the scope of the Contract it could protect its position by issuing a VEAT Notice. Provision is made for the VEAT Notice in the Public Procurement Regulations to be used to advertise to the market an intention to award a contract directly without making a call for competition. However these direct awards can only be made where explicit justification is given. The permissible justifications are set out in regulation 14 as follows:
- (1) A contracting authority may use the negotiated procedure without the prior publication of a contract notice in accordance with regulation 17(3) in the following circumstances-
- (a) in the case of a public contract-
- (i) when a contracting authority is using the negotiated procedure in accordance with regulation 13(a) and invites to negotiate the contract every economic operator which submitted a tender following an invitation made during the course of the discontinued open procedure or restricted procedure or competitive dialogue (not being a tender which was excluded in accordance with regulation 15(11), 16(7) or 18(10)); and
- (ii) subject to paragraph (2), in the absence of tenders, suitable tenders or applications in response to an invitation to tender by the contracting authority using the open procedure or the restricted procedure but only if the original terms of the proposed contract offered in the discontinued procedure have not been substantially altered in the negotiated procedure;

(iii) when, for technical or artistic reasons, or for reasons connected with the protection of exclusive rights, the public contract may be awarded only to a particular economic operator;

(iv) when (but only if it is strictly necessary) for reasons of extreme urgency brought about by events unforeseeable by, and not attributable to, the contracting authority, the time limits specified in-

(aa) regulation 15 for the open procedure;

(bb) regulation 16 for the restricted procedure; or

(cc) regulation 17 for the negotiated procedure;

The Council does not fit comfortably within these justifications, however as Bevan Brittan has advised issuing the VEAT is a way of flushing out potential challenges and would protect the Council's position.

Although the publication of the VEAT notice in itself can encourage a challenge, in practice since the introduction of the New Directive Remedies these notices are being used across the EU to resolve the changing needs of long-term arrangements.

A challenge can be received anytime during the first six months of a Contract but by following the VEAT Notice approach identified above, will reduce the risk of any challenge being made.

- 8.6 It must also be noted that extending the scope of the Contract will trigger the automatic application of the TUPE Regulations which will affect a transfer of a number of existing Council employees within the Streetscape, Parking and Fleet Services to Ringway Jacobs.

## **9.0 Risk Management**

- 9.1 The potential risks to the Council of a procurement challenge are dealt with in paragraph 8.5 above.
- 9.2 The Council is at the forefront of pursuing devolution of services and the objectives of the Localism Act 2011 with its Town and Parish Councils. Currently a 'Pathfinder' is underway with Congleton Town Council. The Pathfinder has been conducting trials on local delivery of services and is currently considering the benefits of devolving services from Cheshire East Council to the Town Council of Congleton. Other Town and Parish Councils are also considering similar service delivery models. The extended Contract with Ringway Jacobs will not prevent or delay such initiatives and is flexible enough to accommodate future delivery needs.
- 9.3 Achieving the target date of 1 January 2013 for the commencement of service delivery under the revised scope of contract is dependant upon the successful completion of 2 key activities, namely, concluding the terms of

the extension with Ringway Jacobs and liaising with staff and trade unions in relation to TUPE transfer.

- 9.4 The Council has recently introduced a requirement for all major projects and programmes to be reviewed by a new corporate quality assurance group called the Executive Monitoring Board (EMB) before they can proceed. Major projects and programmes are defined where there is a total cost in excess of £250k and/or where there is significant risk. The project arising from this report will therefore need to be reviewed by the EMB prior to any approval to proceed being given.

## **10.0 Background and Options**

### Grounds Maintenance and Street Cleansing Existing Arrangements

- 10.1 There are currently 143.3 full-time equivalent (FTE) Council employees employed on Grounds Maintenance, Street Cleansing and related Fleet activities, along with 17 FTE agency employees. These 138.3 members of staff within the Streetscape Service (operatives, apprentices and a mixture of office-based staff) along with 5 employees who work within Fleet Services, maintaining vehicles and plant. The exact numbers of staff eligible for TUPE transfer will be determined as scope of the contract extension is finalised.
- 10.2 Services to be included within the revised scope of contract :
- All highway verges (Already included within scope of works for Ringway Jacobs);
  - Grounds maintenance activities in parks and open spaces;
  - Horticultural activities;
  - Tree Management;
  - Street Cleansing activities; and
  - Litter & dog bin emptying;
- 10.3 Services to be excluded from the revised scope of contract:
- Allotments;
  - Public Conveniences;
  - Markets; and
  - Bereavement Services
- 10.4 The operation is currently undertaken from nine discrete sites across the borough. Locations are determined by the key work locations and the mobility of the equipment used during maintenance operations.

Car Parks and Parking Services Existing Arrangements

- 10.5 There are currently 2 Council employees employed directly working on Parking Maintenance activities that have been identified eligible for transfer.
- 10.6 Services to be included within the revised scope of contract:
- Maintenance and management of all off-street and on-street parking facilities.
- 10.7 Services to be excluded from the revised scope of contract:
- Civil parking enforcement activities
  - All other services within Community Services.
- 10.8 Although the existing service provision is predominantly focussed upon parking enforcement issues, all activities associated with Parking Maintenance and management are common to highway management activities, requiring the same resources and management/maintenance regimes to deliver the service. These common practices will allow future efficiencies to be generated.
- 10.9 The operation is currently managed within Community Services.

Management Arrangements – Highways Services Contract

- 10.10 Ringway Jacobs are the service provider for the Councils Highways Services Contract.
- 10.11 A 'Thin Client Team' has been established to oversee the Contract. The Thin Client is responsible for ensuring that Ringway Jacobs work in accordance with the Council's objectives and achieves all the performance standards contained within the Contract and complies with all the financial controls required for a contract of this size and complexity.
- 10.12 It is intended that the additional service provision identified above in 10.1 and 10.5 will be managed in accordance with the existing Contract. The size of Thin Client Team may need to be slightly increased to oversee the additional contract elements and this will be determined prior to service commencement.

Key Priorities - Addressing Localism

- 10.13 This is a key objective of the Council and considerable focus has been given to ensuring that Ringway Jacobs' solutions address localism. The Council is at the forefront of enabling its Town and Parish Councils to have a greater say on the way services are delivered in their areas.
- A greater focus upon localism has the potential to increase the reputation of both Cheshire East and the local Towns and Parish

Councils. This approach may also gain national recognition for enabling local working, reducing the amount of complaints received, and increasing the quality of the services, whilst still achieving the necessary efficiency savings over the long term.

- Ringway Jacobs are committed to working closely with the Council to achieve any objectives associated with localised devolution opportunities whilst also embracing any changes resulting from the introduction of the Localism Act 2011; and Engaging with existing Town and Parish Councils to form part of the decision making process.
- The Council has for some time been working with Congleton Town Council on a Pathfinder project that, if agreed will see a range of services being provided by the Town Council. This arrangement would result in a number of employees being transferred to Congleton Town Council with responsibility for the provision of plant and other equipment remaining with the Council and managed via the Highways Services Contract. It is expected that the financial implications of this arrangement will provide at least the same value for money as those provided through the Ringway Jacobs contract.
- Should other Town and Parish Councils wish to pursue similar initiatives the Contract with Ringway Jacobs is flexible enough to accommodate this along with other local requirements such as the 'Parish Compact Agreements' (arrangement that allows small budget allocations to be paid directly to Town and Parish Councils to facilitate self delivery of some services. A number of Parish Compacts remain in place following their previous use by Crewe and Nantwich District Councils. The arrangements are expected to continue and may provide a model for further future devolution subject to the requirement that these arrangements provide at least the same value for money as those provided through the Ringway Jacobs contract.
- Whilst the Congleton Pathfinder and Parish Compacts illustrate 2 forms of service devolution it is recognised that others models may develop over time. The Contract extension with Ringway Jacobs will be developed in such a manner that supports this subject to the overall value for money considerations set out above.

#### Key Priorities - Innovation and Efficiencies

- 10.14 A key focus under the Highways Services Contract is to improve the efficiency of the provision of services provided. Ringway Jacobs has produced a schedule of the potential efficiencies and are currently working towards achieving them over the agreed timescale. Budgets have already been adjusted to reflect these improvements.
- 10.15 Ringway Jacobs (Ringway Jacobs) operates similar contracts across the UK; this allows them to bring their knowledge and innovation from elsewhere to benefit Cheshire East.

Key Priorities – Trade Union and Staff Engagement

10.16 Ringway Jacobs have already demonstrated their ability to work closely with all employees that are eligible to transfer from the Council. During the Highways Services procurement, over 140 eligible staff from both the Council and the existing term maintenance contractor (BAM Nuttall) transferred to Ringway Jacobs. A Staff Stakeholder Group was created and was active throughout the transfer process. A new Stakeholder Group will be established during the proposed change in scope of the Highways Services Contract. The group will facilitate employee engagement and cascade information to colleagues as things progress. The group includes union representatives and allows all issues and concerns to be raised and discussed on behalf of the wider employee group.

10.17 Key issues and concerns raised during previous meetings have been:

- Pension issues;
- TUPE issues, when will information be released to staff;
- Depot/accommodation strategy – ‘Where will I be based’; and
- Programme – timeline of events;

Mobilisation and Contract Commencement

10.18 Unlike the Highways Services Contract the speed at which the existing Contract scope could be varied and TUPE arrangements progressed could be completed within a very short period of around twelve weeks. The target date for new service arrangements commencing is 1 January 2012.

**11.0 Access to information**

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

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: CABINET**

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**Date of Meeting:** 17 September 2012

**Report of:** Strategic Director – Places and Organisational Capacity

**Subject/Title:** PATROL Nomination of CE to be Host Authority

**Portfolio Holder:** Cllr Jamie Macrae/ Cllr. Rachel Bailey

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#### **1.0 Report Summary**

- 1.1 In February 2012, Cheshire East Council gave agreement in principle to undertake the role of Host Authority to the PATROL Adjudication Service Joint Committee (this was a result of the Joint Committees selecting Cheshire East as their preferred location) and the Bus Lane Adjudication Service Joint Committee. Cheshire East Council is a member of each joint committee.
- 1.2 This reports sets out work undertaken since February to scope out the role of Host Authority and proposals and timetable for facilitating the transfer from Manchester City Council to Cheshire East Council

#### **2.0 Decision Requested**

- 2.1 To agree to undertake the role of Host Authority to the PATROL Adjudication Joint Committee and Bus Lane Adjudication Service Joint Committee subject to all legal and financial due diligence being satisfactorily completed in accordance with the proposed timetable. This decision will be communicated to the PATROL Adjudication Joint Committee at their next meeting.
- 2.2 To delegate authority to develop and implement a detailed activity schedule that will enable the commencement date for Cheshire East Council becoming the Host Authority to be 1 January 2013.
- 2.3 To note that by becoming the Host Authority, this will trigger the automatic application of the TUPE Regulations which will affect a transfer of 24 employees (Chief Adjudicator and 23 support staff) from Manchester City Council to Cheshire East Council.

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

- 3.1 Manchester City Council is the current Lead Authority and has indicated their wish to relinquish this role at the earliest opportunity.

- 3.2 Suitable offices have been identified for the Traffic Penalty Tribunal headquarters in Wilmslow – benefiting from excellent public transport links, thus bringing another national public sector organisation to that locality.
- 3.3 Whilst it is anticipated that existing employees will transfer to Wilmslow, PATROLS remit is increasing as are the number of appeals has been increasing and it is anticipated that there will be further recruitment locally.
- 3.4 Cheshire East Council has considerable experience of supporting organisational change and understanding of supporting arms length bodies
- 3.5 The Joint Committee will reimburse Cheshire East for all services provided to the Joint Committee, underpinned by a service level agreement which will be subject to annual review over the five year period of tenure
- 3.6 The Joint Committee gains income via its 270 member authorities, Cheshire East would not be taking on additional expenditure and any liabilities would be reviewed in conjunction with the Joint Committee's reserves policy.

#### **4.0 Wards Affected**

- 4.1 All

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

- 5.1 All

#### **6.0 Policy Implications including – Carbon Reduction - Health**

- 6.1 The Joint Committee is mindful of the Council's commitment towards reducing carbon emissions and creating sustainable services. The Joint Committee share the same principles and will draw upon the expertise of Cheshire East Council to develop suitable and robust employee travel plans and pursue other carbon reduction initiatives in accordance with the Council's carbon reduction strategy.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

**Budgets and Financing**

- 7.1 The expenditure budget for 2012/13 in respect of PATROL is £3.1m, of which some £2m relates to pay (adjudicators and staff); £1m to non pay spend; and £100k to contingency/ contribution to reserves. £500k of this spend relates to the Bus Lane Adjudication Joint Committee account.
- 7.2 Expenditure is financed by contributions from local authorities that are part of the scheme. To ensure good cash flow, authorities are invoiced quarterly in advance, based on estimated numbers of penalty charge notices, with adjustments for actual numbers made retrospectively. The Committee can adjust the rate of contribution mid-year, if required, to ensure cost recovery.

**Reserves**

- 7.3 PATROL is principally reliant on a single source of income (contributions from authorities) and aims to be self-financing. Since its inception, levels of reserves have been built up, to ensure continuity in the event of unexpected variances in operating expenditure/ income; and to cover risks/ investment costs in relation to property and ICT.
- 7.4 The Reserves Policy is reviewed on an on-going basis and is presented to the Joint Committee on an annual basis for approval. The Committee's policy is for a reserve of £1.5m; the current level is £1.8m and there is a commitment to review the level, in the light of transfer of host authority.

**Support Services**

- 7.5 The range of support services required by the operation, both initially and on an ongoing basis, is summarised in paragraph 10.12 of the report. The Joint Committees anticipate discussing with Cheshire East which services can be provided in-house by the Council and which might be purchased from alternative providers, where appropriate.
- 7.6 The Council will need to consider the scope of services requested and our capacity to provide support, in respect of the individual Service areas. In order to give an indication of scale however, PATROL has been charged £40k per annum for the support services provided by its current host. Cheshire East will be reimbursed for all services it provides on behalf of the Joint Committee and service level agreements will be drawn up and reviewed each year.

- 7.7 It should be noted that PATROL have their own Finance staff, accounting system and financial regulations and manage their own budget setting, monitoring, reporting and day-to-day financial operations (except for payroll).

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

- 8.1 Pending detailed discussions with the Joint Committee and due diligence being completed only general comments can be provided in relation to the legal implications
- 8.2 TUPE will apply in relation to the existing employees of the Joint Committee and Service. In addition there may be Manchester Council staff who also assert the right to transfer under TUPE.
- 8.3 The current relationship between the host Authority and the Joint Committee is somewhat unusual as despite the host authority being the employer the Committee/Service appears to act with autonomy from the host which if it continues if Cheshire East becomes the host may well expose the Authority to additional risks/liabilities which it would not ordinarily be exposed to as a result of a TUPE transfer.
- 8.4 The Joint Committee is not a legal entity and hence the requirement that the host authority enter into contracts on behalf of the Committee. A procurement exercise has been undertaken for an ICT case management system and the Council has been asked to enter the contract on behalf of the Committee. The terms of the contract will require review and the requisite indemnities sought from the Joint Committee in relation to potential liabilities. The Council has been asked to enter the contract now, prior to the Council becoming the host authority and if Members approve such action governance and a Service Level Agreement will need to be concluded prior to contract execution.

## **9.0 Risk Management**

- 9.1 The review of governance documentation will enable dialogue between the Joint Committee and Cheshire East to style these according to current needs
- 9.2 The Joint Committee has agreed to review its reserves policy to provide assurance to Cheshire East in relation to contracts/leases that it enters into on behalf of the Joint Committee and which are fully funded by the Joint Committee.
- 9.3 The Joint Committee covers its expenses between the current membership of 270 Member authorities.

- 9.4 Cheshire East has considerable experience of supporting TUPE transfer.
- 9.5 The Council has recently introduced a requirement for all major projects and programmes to be reviewed by a new corporate quality assurance group called the Executive Monitoring Board (EMB) before they can proceed. Major projects and programmes are defined where there is a total cost in excess of £250k and/or where there is significant risk. The project arising from this report will therefore need to be reviewed by the EMB prior to any approval to proceed being given.

## **10.0 Background and Options**

- 10.1 The PATROL Adjudication Joint Committee (PATROLAJC) has been established to enable the current membership of 270 Councils in England (outside London) and Wales undertaking civil parking enforcement to exercise their functions under Section 81 of the Traffic Management Act 2004 and Regulations 17 and 18 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007. These functions are exercised jointly with other councils in accordance with the requirements of Regulation 16 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.
- 10.2 The functions of the PATROLAJC on behalf of its constituent councils are appointing independent adjudicators to the Traffic Penalty Tribunal (subject to the consent of the Lord Chancellor), providing these adjudicators with administrative staff and accommodation and providing hearing venues. Its remit in relation to the Tribunal is limited to these matters.
- 10.3 Civil bus lane enforcement is governed by separate legislation and this brings a requirement for a separate Joint Committee, the Bus Lane Adjudication Service Joint Committee. Adjudication services are provided to the Joint Committee on an integrated basis although the BLASJC has separate governance documentation and accounts.
- 10.4 The Traffic Penalty Tribunal is an independent tribunal where impartial lawyers consider appeals by motorists and vehicle owners whose vehicles have been issued with penalty charge notices arising from civil enforcement of parking (England outside London and Wales) and bus lanes. The associated regulations have been devolved to the Welsh Government.
- 10.5 The Traffic Penalty Tribunal comprises 23 Adjudicators (21 of whom work remotely across England and Wales on a fee paid basis). Two headquarters based Adjudicators (including the Chief Adjudicator) are salaried. The Adjudicators are supported by 23 support posts, 18 of

which are currently filled by contracted staff and the remaining 5 are currently filled with temporary staff. Once the transfer is complete, the intention is to fill these posts with contracted staff. The tribunal conducts both telephone, video conferencing and personal hearings around England and Wales. For the latter 22 casual hearing centre supervisors are employed on a fee paid basis to support hearings in local meeting rooms hired on an ad hoc basis.

10.6 The Tribunal follows the framework of standards for tribunals, in that it needs to be:

- Independent
- Providing open, fair and impartial hearings
- Accessible
- Offer cost effective procedures
- Be properly resourced and organised.

10.7 Because the Joint Committees have no corporate status and cannot therefore contract, they need to appoint of the constituent councils to enable goods and services to be provided on behalf of the Joint Committees.

10.8 The primary objectives of the Joint Committees are

- a fair adjudication service for appellants including visible independence of the adjudicators from the authorities in whose areas they are working
- Consistency in access to adjudication
- A cost effective and equitable adjudication service for all parking and bus lane authorities
- Flexibility to deal with a wide range of local authorities

10.9 The shared aims of the Adjudicators and the Joint Committees are the commitment to a fair adjudication service for appellants including visible independent of adjudicators from the authorities in whose areas they are working. The Adjudicators and Joint Committees will be entering into a Memorandum of Understanding which clarifies the relationship between the Adjudicators and the Joint Committees and the shared requirements to preserve judicial independence. The Memorandum of Understanding will inform the Service Level Agreement with the Host Authority.

10.10 The relationship with the Host Authority will therefore be sufficiently arms length and will be underpinned by a Memorandum of Understanding. The expectation of the Joint Committee is that the Host Authority will work with the Joint Committee and the Traffic Penalty Tribunal in an enabling way to facilitate goods and services, even where this may require working outside the council's standard policies.

- 10.11 The Joint Committees will reimburse the Host Authority all costs and charges associated with taking on the role of Host Authority.
- 10.12 The services required from Cheshire East fall into a number of stages:

Transfer

- Signing the lease for the premises in Wilmslow
- TUPE transfer of staff, transfer of pension arrangements and HR advice to support this process.
- Legal services liaison regarding the continuity of the PATROL and BLASJC Agreement and Memorandums of Participation with Member Authorities.
- Transfer of contracts as appropriate and entering into new contracts where required.
- Scoping of options for new business opportunities

Early Stages

- Preparation of Service Level Agreement to cover routine and project based services provided by the Host Authority – January 2013 Joint Committee
- Review of Governance Documentation - June 2013 Joint Committee meeting

Ongoing

- Advice, where required, (either from Cheshire East as part of the SLA) or bought in funded by the Joint Committee in respect of: HR, Legal, FOI, Equality, Health and Safety, ICT, Finance, Procurement to support the current arrangements and ensure that the Joint Committees and the Traffic Penalty Tribunal are able to take advantage of new opportunities.
- Minute taking for Joint Committee meetings three times per year.
- Providing engrossed Memorandums of Participation to new councils joining the Joint Committee (tbc)
- Internal Audit Services (tbc)
- Staff payroll
- Liaison officer

Annual

- Approval of annual accounts by Treasurer

### Timescale

A detailed programme mapping out the activities to be delivered by CEC/PATROL is currently being prepared. The two organisations will be working to ensure that the independent adjudication service is up and running from its new premises by 31<sup>st</sup> March 2013. Critical activities in the run up to this deadline include HR transfer of staff under TUPE, provision of ICT infrastructure and the negotiation and agreement of the property lease for office accommodation

## **11.0 Access to Information**

- 11.1 The background papers relating to this report can be inspected by contacting the report writer.

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: CABINET**

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<b>Date of Meeting:</b>	17 September 2012
<b>Report of:</b>	Strategic Director of Places and Organisational Capacity
<b>Subject/Title:</b>	Congleton Transport Infrastructure – Assessment of a new Link Road
<b>Portfolio Holder</b>	Councillor Jamie Macrae

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#### **1.0 Report Summary**

- 1.1 This report sets out the activities necessary to support the development, promotion and delivery of new transport infrastructure for Congleton to support the towns existing economic base and any future plans for growth to emerge from the development of the Borough's Local Plan.
- 1.2 An outline accelerated programme and cost plan has been prepared to identify the timescale and resources for delivery of this work, a summary of which is contained in Appendix A.
- 1.3 Early work on the Borough Local Plan revealed strong support for a new relief road. If this is proven to be the optimum solution, the programme has been extended to indicate the minimum timescales required to deliver such a highway through the Statutory Procedures. Key Milestones in this process are identified.
- 1.4 The report highlights the programme for the development of the project and compares this with the current timescales for the production of the Local Plan.

#### **2.0 Decision Requested**

- 2.1 To approve the commencement of the work necessary to establish a range of transport infrastructure options that support the sustainable economic growth of Congleton – leading to the identification of a preferred option. This work includes the following:

1. A Project Plan with key milestones, timescales, gateway reviews and other decision points:

Milestone 1 – Approvals and Governance

Milestone 2 – Preliminary Investigation and Scoping

Milestone 3 – Data Gathering  
Milestone 4 – Option Development and Appraisal  
Milestone 5 – Consultation  
Milestone 6 – Scheme Assessment Report and Preferred route.

2. Approve the strategic objectives for the study as set out in section 6.1 of this report
  3. Approve the funding and budget necessary to deliver the first four Milestones, and noting –
    - ◆ The requirement to make £200,000 additional funding available from the Council's capital programme for 2012/13 in order to deliver Milestone 3 to programme and commence Milestone 4.
    - ◆ The requirement for additional corporate funding to supplement Local Transport Plan resource from 2013/14 onwards. This is anticipated at this stage to be £400,000.
    - ◆ The need to take a formal business case through the Executive Monitoring Board for approval.
  4. Approve the procurement of these services through the current Highway Services Contract (Ringway Jacobs) subject to the Highways and Transport Manager being assured of value for money.
- 2.2 Members are also invited to note the indicative delivery programme and the key milestones for further Cabinet decisions. A summary of the key decision points and proposed delegation is contained within Section 10.

### **3.0 Reasons for Recommendations**

- 3.1 The Council's endorsement of this report will allow feasibility work to commence which will rigorously examine the available transport options to help deliver improved travel and connectivity to support the sustainable economic growth of both Congleton and more widely across the Borough. Any emerging proposals need to be robustly assessed in order to establish a justified and viable preferred transport solution. This solution could be subject to scrutiny and so the Council needs to be sure it satisfies the test of reasonableness and that the Council has the necessary evidence to respond to any future objections.
- 3.2 The project development work is to be undertaken by the Council's Highway Services provider, Ringway-Jacobs within the scope of services procured through the recently awarded Highways Services Contract for the following reasons:

- ◆ The need to achieve a complimentary timescale with the Local Plan and the requirement to have undertaken as much work as possible prior to the publication of the Local Plan Core Strategy
- ◆ The benefit in having an evidence base in place to support a capital funding bid

#### **4.0 Wards Affected**

- 4.1 Brereton Rural, Congleton East, Congleton West, Gawsorth, Odd Rode.

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

- 5.1 Local Ward Members include:

- Brereton Rural – Cllr John Wray
- Congleton East – Cllr David Brown, Cllr Peter Mason and Cllr Andrew Thwaite
- Congleton West – Cllr Gordon Baxendale, Cllr Roland Domleo and Cllr David Topping
- Gawsorth – Cllr Lesley Smetham
- Odd Rode - Cllr Rhoda Bailey and Cllr Andrew Barratt

#### **6.0 Policy Implications**

- 6.1 The proposed objectives of new or improved transport infrastructure provision in Congleton are detailed below:
- To support the economic, physical and social regeneration of Congleton;
  - To relieve existing town centre traffic congestion and HGVs and remove traffic from less desirable roads on the wider network;
  - To open up new development sites;
  - To create and secure jobs;
  - To improve access to Radnor Park Industrial Estate and Congleton Business Park;

- To improve strategic transport linkages across the Borough facilitating wider economic and transport benefits including higher GVA and job creation.
  - To reduce community severance along key town centre corridors and to
  - To reduce traffic related pollutants within the towns declared Air Quality Management Areas.
- 6.2 As part of the feasibility study of the options, an assessment will be made of the policy impact of any emerging solutions. These will be taken into consideration as part of the process for determining a preferred solution.
- 6.3 A new traffic model will be developed as part of the options appraisal and will provide key data. This will include the impact on the Air Quality Management Area in Congleton.

## **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 A Business Case will be required to be submitted to the Executive Monitoring Board for approval. The scheme will be considered as part of the Business Planning process for inclusion in the Capital Programme, subject to available funding.
- 7.2 If capital funding is used for this scheme to address development costs and a subsequent capital project was not forthcoming it would be necessary to fund these costs from revenue.
- 7.3 The indicative costs for each project milestone (below) are provided through the highway contract. A formal fee quote procedure will be followed prior to the commencement of each stage to appraise value for money. If necessary, this could include full market testing.

Scheme assessment costs for similar studies to that proposed for Congleton have been assessed. They are comparable in scale to the budget figures set out below.

### **Milestone 1 & 2 – Preliminary Investigation and Scoping**

- 7.4 The estimated external cost for delivering this phase of work is £75,000. These costs are to be fully met from the Congleton Link Road allocation in the approved 2012/13 Local Transport Plan Programme.

### Milestone 3 – Data Gathering

- 7.5 The estimated external cost for delivering this phase of work is £525,000. These costs can only be partially met from the Congleton Link Road allocation in the approved 2012/13 Local Transport Plan Programme. The approved allocation stands at £400,000. In addition to this there is an allocation of £50,000 from the Regeneration budget towards the development of a business case.

### Milestones 4 – Option Development & Appraisal

- 7.6 The external costs for these stages of work will depend greatly on the outcome of the early stages of work. However, as a guide a figure of £300,000 is indicated. To meet these predicted costs it is likely that additional funding will be required to complement the Local Transport Funding / Regeneration budget. The accelerated programme calls for part of this work to be undertaken this financial year.

### Milestone 5-6 Consultation and Scheme Assessment Report

- 7.7 The costs for this stage of work will be assessed after Milestone 4 and will fall in the 13/14 financial year.

### Milestones 7 – 11 Preliminary Design, Planning Permission, Statutory Procedures, Procurement and Construction.

- 7.8 It is important to note this stage of work would only be pursued if a compelling business case existed and at this stage it is too early to estimate the costs associated with Milestones 7 to 11. A more detailed paper containing this information will be presented at the appropriate stage, including more detailed costs of the scheme, funding options and any associated borrowing costs.
- 7.9 A funding shortfall of approximately £200,000 has been identified in the 12/13 financial year which will need to be identified from the capital programme if the project is to meet its accelerated programme.

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

- 8.1 It is necessary to ensure that any emerging proposals are robustly justified, assess that proposals are viable and to have sound reasons for any preferred course of action and solution so that it/they can be subject to scrutiny and the Council can be sure it satisfies the test of reasonableness and that the Council has the necessary evidence to respond to any possible objections to a preferred scheme. The study stages are intended to establish, from first principles, the underlying justification for the proposed scheme. As the Council moves forward into the planning / delivery phase and particularly, if and when, compulsory purchase or land assembly is pursued the Council will need

to verify that the preferred solution is viable and there are sound reasons to proceed with it.

- 8.2 It is too early to predict the legal issues and considerations which will apply to this project and legal implications will be the subject of future Cabinet reports. However the following matters will/ may be relevant.
- 8.3 Depending on the preferred strategy, any major highway scheme would require the following statutory procedures:
1. Protected route process
  2. Planning permission
  3. Compulsory Purchase Procedures including in all likelihood a public enquiry
  4. Side Roads and Traffic Regulation Orders
- 8.4 If protected species as defined in the Conservation of Habitats and Species Regulations 2010/490 are likely to be impacted by any proposed scheme, full mitigation will have to be provided. This is likely to include a license application to Natural England who has to be fully satisfied before removing this constraint to development. It should be noted however that under these regulations the Council when exercising any of its functions must have regard to the requirements of the Habitats Directive (92/43/EEC) including the duty to consider whether there is a satisfactory alternative.
- 8.5 Other legal issues will include the drafting of legal agreements from potential developers and land owners to make financial contributions to a future scheme and advising on any third party contributions.

## **9.0 Risk Management**

### Local Plan

- 9.1 If a new highway were the preferred solution, then ideally an indicative Corridor of Interest would be included within the Core Strategy of the Local Plan. The Core Strategy is anticipated to be formally consulted on in Spring 2013 and thereafter submitted to the Secretary of State. This means any Corridor of Interest would need to be available and the Business Case established by Quarter 1 2013 when the Council decision making process on the Local Plan Core Strategy takes place.
- 9.2 As a result, any formal protected route could be included in the Local Plan Site Allocations document, which will be subject to formal consultation early in 2014. The current outline programme for the

project suggests that a protected route could be announced towards the end of November 2013, if a highway scheme is the preferred option.

- 9.3 Gateway reviews, built into the programme, will ensure that progression to the next stage of project development is warranted.

### Milestones 1 – 6 Justifying and selecting a scheme

- 9.4 The purpose of these stages is to identify a preferred solution and to develop a robust business case and justification for any preferred scheme such that any decision to deliver that solution satisfies the test of reasonableness thus reducing the risk of legal challenge at later stages. This process will start by examining all available options from the construction of new highways to low cost localised improvements.
- 9.5 It is necessary to follow a recognised and transparent evaluation methodology to successfully defend against challenge during the public consultation and inquiry stage of scheme development. The intention is to follow the process laid out in the Design Manual for Roads and Bridges (DMRB)
- 9.6 Any emerging scheme would be subject to a full public consultation exercise to support the statutory processes. This would enable local people to influence the design, raise concerns and make formal objections as the scheme develops.
- 9.7 To a certain extent project development work on major infrastructure projects always carries a certain amount of risk that funding can be sunk into a scheme that is never (or only partly) delivered. However, by following a recognised process and allowing for sufficient public consultation these risks can be minimised.
- 9.8 Project development work is required to provide evidence for a future potential funding bid for Local Authority Major Schemes. This process is expected to set major scheme priorities for the next spending review period (2015/16 – 2018/19) and requires a funding submission in April 2013. There is a risk that given the relatively short timescale to develop this evidence base the submission may be less robust than other competing schemes within the LEP area.

### Milestones 7 -9 – Delivering the Scheme

- 9.9 At this stage of the project development the full risks of delivering a new relief road are difficult to predict and will be the subject of future Cabinet reports. However, risks are likely to include scheme/construction cost and the availability of funding, phasing, land, planning conditions and changing political priorities.

- 9.10 The current programme for delivery of the scheme will be firmed up following the preceding stages of work. We need to be mindful that the statutory procedures stages can vary from scheme to scheme. For some schemes the Secretary of State may choose to 'call in' any planning decision – this would add a minimum of 3 months onto the programme presented.
- 9.11 The Council has recently introduced a requirement for all major projects and programmes to be reviewed by a new corporate quality assurance group called the Executive Monitoring Board (EMB) before they can proceed. Major projects and programmes are defined where there is a total cost in excess of £250k and/or where there is significant risk. The project arising from this report will therefore need to be reviewed by the EMB prior to any approval to proceed being given.

## **10.0 Background and Options**

### General Background

- 10.1 The need to undertake a study into a new transport solution for Congleton became clear following the public and business community response to the early Local Plan work for Congleton. Strong representations were made supporting a bypass to the north of the town to support potential development sites.

A new transport solution is seen as vital to support a strategy for the sustainable development and growth of Congleton, whilst also benefiting existing transport users and businesses in the town. The level and location of the growth being considered would support the investigation of major highway infrastructure improvements, including a bypass option.

- 10.2 The current programme for the production of the Core Strategy of the Local Plan anticipates publication and statutory consultation will take place in Spring 2013 with submission to the Secretary of State in Summer 2013. This transport study would seek to inform the Local Plan Core Strategy; if possible it will establish a policy justification for the need for the Link Road and allow for a Corridor of Interest to be identified in the Core Strategy. In practice this would mean that the Corridor of Interest would need to be available and the Business Case established by Quarter 1 when the Council decision making process on the Local Plan Core Strategy takes place.
- 10.3 The relationship between the Local Plan programme and this study is important. If the principle of a Congleton Link Road and significant associated development is included in the Local Plan Core Strategy, at the public examination, the Council will have to be able to demonstrate to an Inspector that the Link Road is;

- Essential to achieve the level of development proposed;
- Works satisfactorily in terms of the wider highway network in the town and across the Borough;
- Is deliverable within the timescale of the Plan (i.e. up to 2030);
- Funding is achievable (i.e through S106 agreements, CIL etc);
- The environmental impacts are outweighed by the economic/social benefits that would accrue

10.4 The inclusion of a Corridor of Interest in the Core Strategy could then allow for a detailed route to be subsequently identified in the Local Plan Site Allocations document which is scheduled to be published for consultation early in 2014.

#### Scheme Development

10.5 The preferred scheme must demonstrate, after full consideration of the alternatives, that it is the most appropriate to deliver the set strategic objectives. A range of schemes to achieve this goal will be tested from low cost local measures through to consideration of construction of a relief road.

10.6 The objectives for the proposed Congleton Link Road are shown below:

- To support the economic, physical and social regeneration of Congleton;
- To relieve existing town centre traffic congestion and HGVs and traffic from less desirable roads on the wider network;
- To open up new development sites;
- To create and secure jobs;
- To improve access to Radnor Park Industrial Estate and Congleton Business Park;
- To improve strategic transport linkages across the Borough facilitating wider economic and transport benefits including higher GVA and job creation.
- To reduce community severance along key town centre corridors and to
- To reduce traffic related pollutants within the towns declared Air Quality Management Areas.

10.7 If the Preferred Solution were to construct a new road or improve the existing highway network, the recommendation is to deliver the project

in accordance with the requirements of the Design Manual for Roads and Bridges (DMRB), in the form of a series of milestones. This approach will also provide a robust evidence base for a potential bid for Major Scheme Funding. The current timescale for this funding submission is April 2013. The Project Plan, (which forms part of Milestone 1) specifies these milestones and associated milestone activities as detailed below:

**Milestone 1: Approvals and Governance**

- RGF Funding Application
- Strategic Plan
- Project Plan

**Milestone 2: Preliminary Investigation and Scoping**

- Policy, Problems, Opportunities and Constraints
- Transport Planning and Objective Review
- Options Review
- Appraisal Specification Report
- Environmental Scoping Report
- Geotechnical Statement of Intent
- Initial Public Consultation

**Milestone 3: Data Gathering**

- Noise and Air Quality Desk Study
- Preliminary Sources Scoping Report (Geotechnical Desk Study)
- Hydrology Desk Study
- Landownership Survey
- Phase 1 Habitat Survey
- Landscape Survey
- Cultural Heritage Survey
- Traffic Modelling

**Milestone 4: Options Development and Appraisal**

- Interventions Report
- Early Assessment and Sifting Tool (EAST)
- Option Development Stage 1
- Stage 1 WebTAG Appraisal
- Option Development Stage 2
- Assessment of Structures Report
- Environmental Impact Assessment Report
- Initial Traffic, Economics and Accident Report
- Stage 2 WebTAG Appraisal
- Technical Appraisal Report

**Milestone 5: Consultation**

- Stage 1 Scheme Assessment Report
- Exhibition Material
- Public Consultation
- Public Consultation Report

**Milestone 6: Stage 1 Scheme Assessment Report**

- Stage 2 Scheme Assessment Report and Preferred Solution

10.8 Copies of the current Project Plan and Delivery Strategy are attached at Appendix B and the proposed project governance at Appendix C

Delivery Strategy and Outline Programme

10.9 Subject to the outcome of the scheme assessment report it is likely that any major highway proposals would have to be constructed in several sections. The scheme assessment report will recommend a strategy in this respect.

10.10 A draft programme has been produced which covers the Options Appraisal stage leading to the design and construction of what has been assumed to be Stage 1 of an emerging major highways scheme. The following table summarises the key milestones.

Stage / Milestone	Deliverables	Delivery Date
<b>Milestone 1 – RGF Bid and Project Plan</b> <ul style="list-style-type: none"> <li>• RGF Funding Application</li> <li>• Strategic Plan</li> <li>• Project Plan</li> </ul>	Formal support for submitted RGF bid and development of project delivery strategy.	April 2012 – September 2012
<b>Milestone 2 - Preliminary Investigation and Scoping</b> <ul style="list-style-type: none"> <li>• Policy, Problems, Opportunities and Constraints</li> <li>• Transport Planning and Objective Review</li> <li>• Options Review</li> <li>• Appraisal Specification Report</li> <li>• Environmental Scoping Report</li> <li>• Geotechnical Statement of Intent</li> </ul>	Conduct a review of the policies, full range of options and problems, opportunities and constraints followed by a Transport Planning Objectives review and other early scoping reports.	By October 2012

Stage / Milestone	Deliverables	Delivery Date
<b>Milestone 3 - Data Gathering</b> <ul style="list-style-type: none"> <li>Noise and Air Quality Desk Study</li> <li>Preliminary Sources Scoping Report (Geotechnical Desk Study)</li> <li>Hydrology Desk Study</li> <li>Landownership Survey</li> <li>Phase 1 Habitat Survey</li> <li>Landscape Survey</li> <li>Cultural Heritage Survey</li> <li>Traffic Modelling</li> </ul>	This stage completes various surveys and desktop studies including; Noise and Air Quality, Geotechnical, Hydrology, Landownership, Phase 1 Habitat, Landscape and Traffic Modelling.	October 2012 – July 2013
<b>Milestone 4 - Options Development and Appraisal</b> <ul style="list-style-type: none"> <li>Interventions Report</li> <li>Early Assessment and Sifting Tool (EAST)</li> <li>Option Development Stage 1</li> <li>Stage 1 WebTAG Appraisal</li> <li>Option Development Stage 2</li> <li>Assessment of Structures Report</li> <li>Environmental Impact Assessment Report</li> <li>Initial Traffic, Economics and Accident Report</li> <li>Stage 2 WebTAG Appraisal</li> <li>Technical Appraisal Report</li> </ul>	Running in parallel and informed by Milestone 3 activity this includes the options appraisal and development stage and writing the various stages of the outline business case to support the scheme through the new Major Scheme Funding Process.	October 2012 – July 2013
<b>Milestone 5 – Consultation</b> <ul style="list-style-type: none"> <li>Stage 1 Scheme Assessment Report</li> <li>Exhibition Material</li> <li>Public Consultation</li> <li>Public Consultation Report</li> </ul>	The Stage 1 Scheme Assessment Report is prepared and used to inform the public consultation process.	July 2013 – November 2013
<b>Milestone 6 – Scheme Assessment Report</b> <ul style="list-style-type: none"> <li>Stage 2 Scheme Assessment Report and Preferred Solution</li> </ul>	This report draws together all the work undertaken to date, the output from the public consultation process and will be used to present the recommendation for <u>Preferred Route / Scheme to Cabinet</u> – leading to potential route protection.	October 2013 – November 2013
<b>Milestone 7 – Preliminary Design (Section 1)</b>	Preliminary design on an assumed Section 1 of the emerging scheme progresses with the culmination of seeking planning permission and the publication of draft orders. <i>Potentially, if RGF funding were available this work could be started in parallel with Milestone 6.</i>	<i>Indicative only</i> November 2013 – October 2014

Stage / Milestone	Deliverables	Delivery Date
<b>Milestone 8 – Planning Permission (Section 1)</b>	This would cover the process leading up to the public inquiry and dealing with the process and findings.  NB: This period could increase by 3 months if the scheme is called in.	<i>Indicative only</i> <i>August 2014 – February 2015</i>
<b>Milestone 9 (Section 1)</b>	Statutory Procedures – Compulsory Purchase of Land.	<i>Indicative only</i> <i>Public Inquiry – Summer 2015</i> <i>Land Entry – May 2016</i>
<b>Milestone 10 (Section 1)</b>	Procurement	<i>Spring 2015 – Spring 2016</i>
<b>Milestone 11 (Section 1)</b>	Construction and Open to Traffic	<i>Summer 2016 – Summer 2017</i>

10.11 Linked to the key milestones set out above, the following approval stages are proposed up to the end of Milestone 6:

Decision Required	Decision maker and indicative date			
	Cabinet	Portfolio Holder	Delegated Director	Head of Service
Briefing – Preliminary Investigation and Scoping		Oct 2012		
Agree Target cost for each Milestone within budget thresholds identified.				X
Briefing – Interventions Report		Nov 2012		
Outline Business Case	June 2013			
Proceed to Consultation	June 2013			
Briefing – Public Consultation Report		Oct 2013		
Approval of Preferred Solution	Nov 2013			

## 11.0 Access to Information

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

- Summary Outline Programme and Expanded Task List
- Project Plan and Delivery Strategy
- Proposed Project Governance

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## CHESHIRE EAST COUNCIL

### REPORT TO: Cabinet

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<b>Date of Meeting:</b>	17 <sup>th</sup> September 2012
<b>Report of:</b>	Strategic Director Places & Organisational Capacity
<b>Subject/Title:</b>	Affordable Housing Programme – Phase Two
<b>Portfolio Holder:</b>	Councillor J. Macrae

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#### 1.0 Report Summary

- 1.1 In March 2011 Cabinet gave approval for the disposal of eleven Cheshire East owned sites for the provision of affordable housing. Of the eleven initial sites, four were taken through a pilot OJEU procurement exercise to establish whether this was the best route for disposal and whether financial objectives and social return could be secured from the programme.
- 1.2 Following on from the success of the initial first phase pilot the Affordable Housing Working Group are now in the process of progressing Phase 2, which was to include the remaining seven sites. Two sites are no longer available for the provision of affordable housing and this report seeks permission to replace these sites.

#### 2.0 Decision Requested

- 2.1 Approval is sought to dispose of the following sites:
- Birtles Road, Macclesfield - for the provision of housing with a type of scheme which fits with the character of the locality;
  - Redsands, Nantwich - for the provision of accommodation for residents with support needs to be developed on the current footprint of the existing buildings located on the site to ensure that it is compliant with Policy NE.4.

The final schemes will be reviewed with local Ward Councillors and consulted upon locally prior to sale.

- 2.2 Approval is sought to seek Secretary of State consent for the disposal of the former Lodgefields School site in Crewe.
- 2.3 Approval is sought to allow for the provision of up to 50% market housing in conjunction with 50% affordable housing on the Lodgefields School site in Crewe to ensure that the site is financially viable and to encourage further

interest following the poor response to the Westview site in Crewe within phase 1.

### **3.0 Reasons for Recommendations**

- 3.1 One of the key priorities identified within Cheshire East's Housing Strategy is the delivery of both market and affordable housing. There is a significant need for affordable housing across Cheshire East, demonstrated in the 2010 Strategic Housing Market Assessment, which identified an annual need for 1243 homes. The low level of housing developments and the reduction of public subsidy are impacting on our ability to bring forward affordable housing. This situation places additional onus on the Council to find new and innovative ways of meeting its affordable housing needs. The use of Council owned assets is a means of achieving this.

### **4.0 Wards Affected**

Broken Cross and Upton Ward  
Wistaston

### **5.0 Local Ward Members**

- 5.1 Councillor L Brown  
Councillor M Hardy  
Councillor M Simon  
Councillor J Weatherill

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

- 6.1 Housing is fundamental to the well being and prosperity of the Borough. There are direct connections between the quality of the housing stock and health, educational attainment, carbon reduction and care for older people. Providing sufficient housing is essential to maintain economic growth and vitality – and access to housing is a key issue in rural areas.

### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 Capital receipts generated through the sale of Council owned assets are an increasingly important feature of the Capital Programme, and the Business Plan sets the challenging target of £10m in capital receipts for the current 2012/13 financial year and £5m in both 2013/14 and 2014/15. There will be a need to take into consideration the Council's wider financial requirements when determining the rationale around the disposal of assets.
- 7.2 Phase 1 of the affordable housing programme however demonstrated that not only were we able to secure the provision of approximately 50 units (subject to Planning Permission) of affordable housing but we were able to retain

ownership of the land (125 year lease) and receive an annual revenue stream for the duration of the lease which increases in line with RPI annually.

- 7.3 The development of new affordable homes will bring in the New Homes Bonus, which is based on the National average Council Tax and is payable for six years. In addition Affordable Homes attract a further £350 per affordable home and is also paid for six years for example

1 unit of market housing, average council tax A over a six year period = £5,754

1 unit of affordable housing, average council tax A over a six year period = £7,854

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

- 8.1 Due to the value of the assets to the housing providers the Council will need to procure its partners in compliance with EU procurement rules.
- 8.2 Preliminary title reviews in respect of the properties, in respect of which title details are awaited, have revealed the presence of some covenants, rights over or in respect of the properties and other matters which could adversely affect development.

Consideration will be given to the means, if any, of securing releases of or insurance covering the risk of any such matters which could impede development.

- 8.3 From 1<sup>st</sup> February 2012 the consent of the Secretary of State is required for the sale of all land which was used as a school in the last eight years. Disposal of the former Lodgefields School will therefore require the Secretary of State's consents under Schedule 1 of the Academies Act 2010 as inserted by Section 63 of the Education Act 2011.

## **9.0 Risk Management**

- 9.1 The OJEU procurement process is a resource intensive process which requires the input from a number of officers to ensure that it is carried out in accordance with the regulations and we do not face future challenge. To ensure an effective use of our resources we need to optimise the number of sites included in the second phase which will ensure that we receive sufficient interest from the market.
- 9.2 The former Lodgefields School site which has approval for disposal for affordable housing will now require Secretary of State consent for disposal. The process could preclude the site from inclusion in the second phase of the programme and there is a risk that the Secretary

of State could transfer the land to an academy or free school if it feels there is a need in the area.

## **10.0 Background and Options**

- 10.1 In March 2011 a report was submitted to Cabinet which included the use of a number of council owned assets for the provision of affordable housing. These sites included:

### **Phase 1**

Oakdene Court, Wilmslow  
Churchside Cottages, Macclesfield  
The Moss 4 and 6 Congleton Road, Macclesfield  
Westview, Crewe.

### **Phase 2**

20 Priory Lane, Macclesfield  
Cypress House, Handforth  
Former Lodgefields School, Crewe  
Lodmore Lane, Burleydam  
Green Street, Macclesfield  
Hurdsfield Community Centre, Macclesfield  
Former Primary School, Church Lawton

- 10.2 The contract for Phase 1 was awarded in March 2012 and the successful contractors are now progressing the developments through the planning process. Phase 1 demonstrated that there is interest from the market to develop affordable housing. The approach taken to lease the land on a 125 year lease agreement also enabled us to retain the land asset and secure an annual ground rent.

Whilst we received significant interest for the sites in Macclesfield, there was less interest for the Westview site in Crewe. We asked those who had not submitted bids the reason why they had declined and this was attributed to the land value and the ability to provide 100% affordable housing on any site in the Crewe area as it was not considered financially viable. This has been taken into account for Phase 2 and the Working Group would therefore like the option to consider variable bids which include up to 50% market housing in order to subsidise the development of the affordable units in the Crewe area.

- 10.3 The Affordable Housing Project Working Group which consists of representatives from Assets, Housing, Procurement, Legal and Planning are now progressing Phase 2 of the project through the same OJEU procurement route. The intention was to bring the remaining seven sites to the market.
- 10.4 During the first stage of the process two sites were identified for alternative uses and were removed from the programme.

- Former Primary School, Church Lawton – approval was given to develop a special school for Autistic pupils
- Hurdsfield Community Centre, Macclesfield – The Hurdsfield Residents are developing a proposal to form a Community Group to take over the running of the Community Centre.

10.5 We are now seeking to replace the two sites to ensure that there are sufficient sites to generate interest from the market. There are a number of sites which have been considered and the following have been established as potential sites following discussion with both Assets and Planning. The final mix of tenure will be reviewed prior to award of contract and full consultation will take place with Local Ward Members.

### **Birtles Rd, Macclesfield – Appendix 1**

Information on site detail for Birtles Rd including a plan of the site and housing need is outlined within Appendix 2

This site would be suitable for a mix of 2, 3 and 4 bed houses. In addition a small number of bungalows maybe appropriate Flats would not be considered suitable as there has already been considerable development of flats in this area.

There is currently a derelict building on the site which has locally listed status. In accordance with Council guidance on this subject retention of a locally listed building should be investigated and retained where practicable. Normally, loss of the building will only be permitted if Cheshire East Council is satisfied it is beyond reasonable repair. If this is the only option officers should ensure elements of the Locally Listed Building are incorporated into any new design proposal.

Where retention proves impracticable, the council will require that a photographic record of the building is made prior to demolition and submitted to the Council for record purposes.

As highlighted above, consultation with local Ward Councillors and residents will take place prior to any sale of the Birtles Road site to ensure the appropriate mix of uses is brought forward to reflect local need, and to ensure the site is in a sustainable location for development. If local concerns are raised, the matter be referred back to Cabinet for a further decision on whether or not to proceed.

### **Redsands Wistaston- Appendix 2**

Cabinet made a previous decision on 19<sup>th</sup> January 2010 in relation to disposal of this land. At that time Cabinet resolved that approval be given to procure a development partner for the Redsands site to provide supported living facilities for adults with a learning disability. Adult Services no longer wish to pursue the development of this type of

accommodation, but would be receptive to a mixed development of both affordable and supported accommodation.

Redsands sits within and is surrounded by the Green Gap. Green Gap is a very important local policy in Crewe and Nantwich. In order to fully comply with the Green Gap policy, the site will be utilised for the provision of accommodation to be developed on the current footprint of the existing buildings located on the site to ensure that it is compliant with Policy NE.4.

**11.0 Financial considerations: When considering the disposal of the sites for the provision of potential affordable homes consideration should be taken on the following points:**

- The target for the 2012/13 financial year is £10,000,000 and the Council has already agreed sales of £6,000,000 i.e. for commercial sites (sold subject to contract) and a further £6,300,500, identified from the Councils Farms Estate.
- The Asset Management Service anticipates a combined capital receipt in excess of £620,000 if the sites (listed in 2.1) were disposed of on the open market. The combined holding cost associated with the properties is in the region of £51,100 per annum as outlined below.

Proposed Site	Open Market Value	Holding Costs
Birtles Road, Macclesfield	£220,000	£1,100 per annum
Redsands, Wistaston	£400,000	£50,000 per annum

- If the sites were included within the Strategic Housing Project, the Council would receive an annual income (by way of a ground rent) over the 125 year period of the lease.
- The Council will be eligible for the new homes bonus payments for the first 6 years, once the units have been developed plus a bonus of £350 per affordable unit.

**12.0 Access to Information**

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

Name: Karen Carsberg  
 Designation: Strategic Housing Manager  
 Tel No: 01270 686654  
 Email: Karen.carsberg@cheshireeast.gov.uk

## **Appendix 1 Birtles Rd Macclesfield**

This site is located to the north west of Macclesfield town centre on Birtles Rd and is around 1.7 acres in size. It includes a derelict property at 70 Birtles Road which has locally listed status.

A planning application for reserved matters for 41 affordable houses providing a combination of semi-detached and small terraced blocks was submitted by Jones Homes in April 2008 (planning reference 08/0775). The application was accompanied by a further one for the use of land for footpaths, driveways, road, gardens and landscaping (planning reference 08/0773) on the land fronting Birtles Road known locally as the “lay-by”.

Planning application 08/0775 was refused by the former Macclesfield MBC Planning Committee on 16 June 2008 for the following reason:

The proposed development, by reason of density and number of dwellings, would be out of character with the surrounding area, including the adjacent area of countryside and allotment use lying within the North Cheshire Green Belt. As such, the development would be contrary to policies H2, H3, GC3 and DC1 of the Macclesfield Borough Local Plan 2004.

Planning application 08/0773 for the associated development of the lay-by area was approved with conditions by the former Macclesfield MBC.

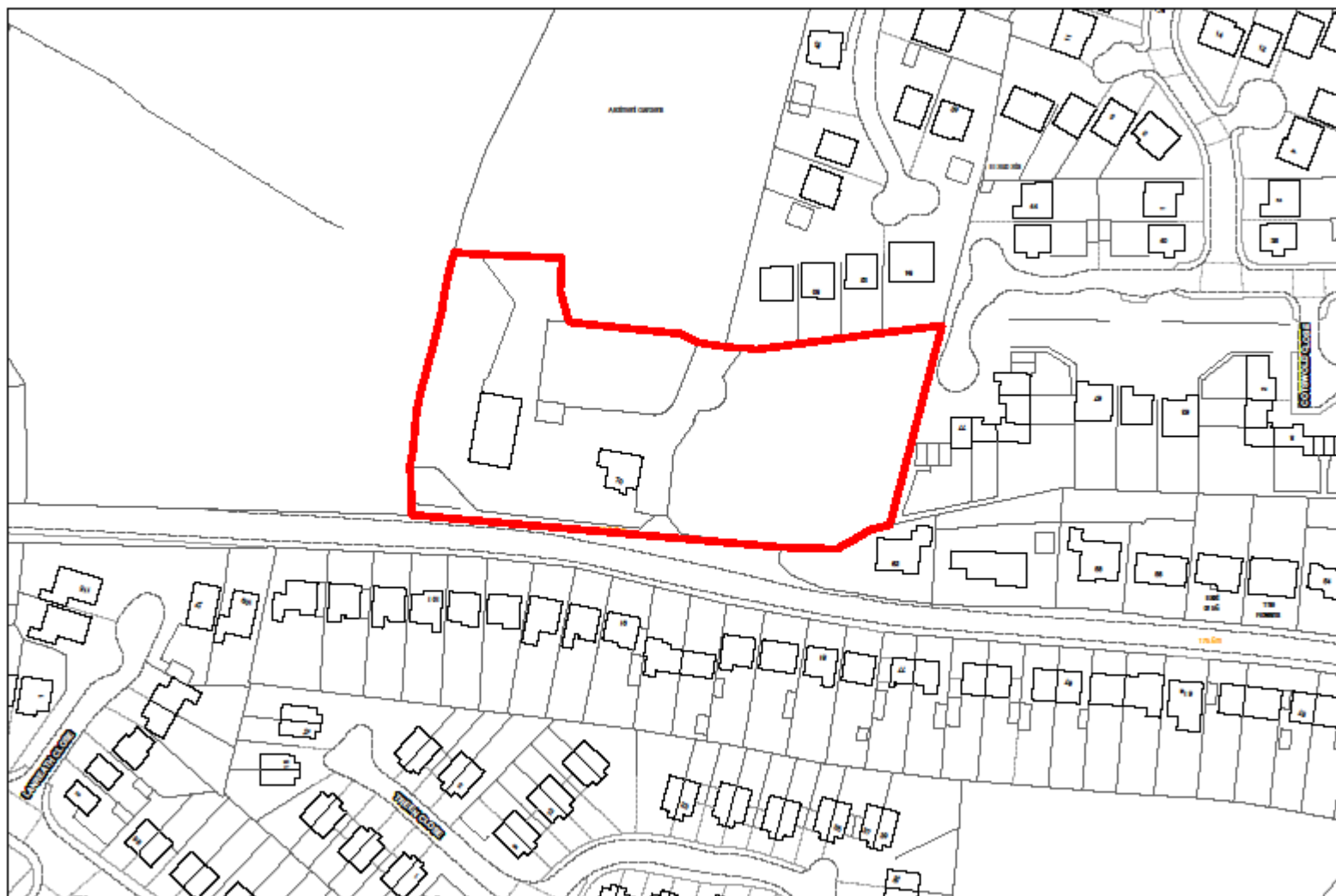
There were a number of other comments made by members of the Planning Committee which, although not reasons for refusal, could be addressed in any revised scheme. In particular, as the application was for reserved matters, it had to comply with the terms of the outline planning permission granted in 2005. As that has now elapsed, the issues raised such as open space, access to the allotments to the rear, pedestrian access and other matters, would need to be addressed as part of any new full planning application.

In August 2008 Members of the former Macclesfield MBC Cabinet were asked to (and subsequently resolved)

- (1) Note the current position regarding the provision of affordable housing on land at Birtles Road, Macclesfield
- (2) Reaffirm the sale of the site for affordable housing
- (3) Agree that the development of the site on appropriate terms for affordable housing be delegated to officers in consultation with the Portfolio Holders for Planning & Development and Asset

**Housing Need** - In Macclesfield and Bollington the SHMA identified a need for 318 units of affordable housing, consisting in the main of 175 two bedroom properties and 109 three bed properties.

There are currently 50 applicants registered on Cheshire Homechoice stating a preference for this area, consisting of 7 people asking for a 1 bed property, 9 asking for 2 bed houses and 19 asking for 3 bed houses. In addition there has only been one 4 bed affordable unit vacant in the last year which received 32 bids indicating four bedroom properties are of high demand in this area.



**BIRTLES ROAD SITE**

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Scale 1:1250



## **Appendix 2 Redsands Wistaston**

This is a 0.76ha site located to the south west of Crewe between Crewe and Nantwich off the A534, Crewe Road.

The site is located in a sustainable location with excellent access to services and facilities in Nantwich

Pedestrian and vehicle access is gained via a single entry from Crewe Road. Parking exists on site immediately to the south of the developed area.

Within the site there are large areas of open space including a pond and football pitch to the west of the developed area.

Previous development on the site has been restricted to an area of approximately 0.76ha consisting of three buildings: one main two storey block, one single storey building to the rear and one single storey building to the east.

Cabinet has already made a previous decision on 19<sup>th</sup> January 2010 in relation to disposal of this land. At that time Cabinet resolved: -

That approval be given to the transfer of the site from the Children's Services to Adult Services at the valuation of £155,250.

That approval be given to procure a development partner for the Redsands site to provide supported living facilities for adults with a learning disability.

That Counsels opinion be sought to ensure that the disposal of land to the chosen Registered Social Care Landlord does not fall within the definition of a Public Works Contract and so be caught by Public Contracts Regulations 2006 as referred to in paragraph 9.2 of the report.

That approval be given to go out to consultation to look at future need for respite for people with very complex conditions, in line with personal budgets and use of alternative provision.

**Housing Need** - It is proposed that this site be developed as a mixed community which could contain one or more of the following:

**Affordable housing** - The SHMA identified a need for 256 new affordable units per year in Crewe, made up of need for 123 x 1 beds, 20 x 2 beds, 47 x 3 beds, 40 x 4/5 beds and 26 x 1/2 bed older person units.

There are currently 41 applicants who have selected the Wistaston area of Crewe as their first choice, these applicants require - 14 x 1 beds, 13 x 2 beds, 10 x 3 beds and 1 x 4 beds.

- Extra Care Housing (mainly for older people)
- Supported living for younger adults with disabilities

- Accommodation for children leaving care and progressing into adulthood who may have life-skill support needs

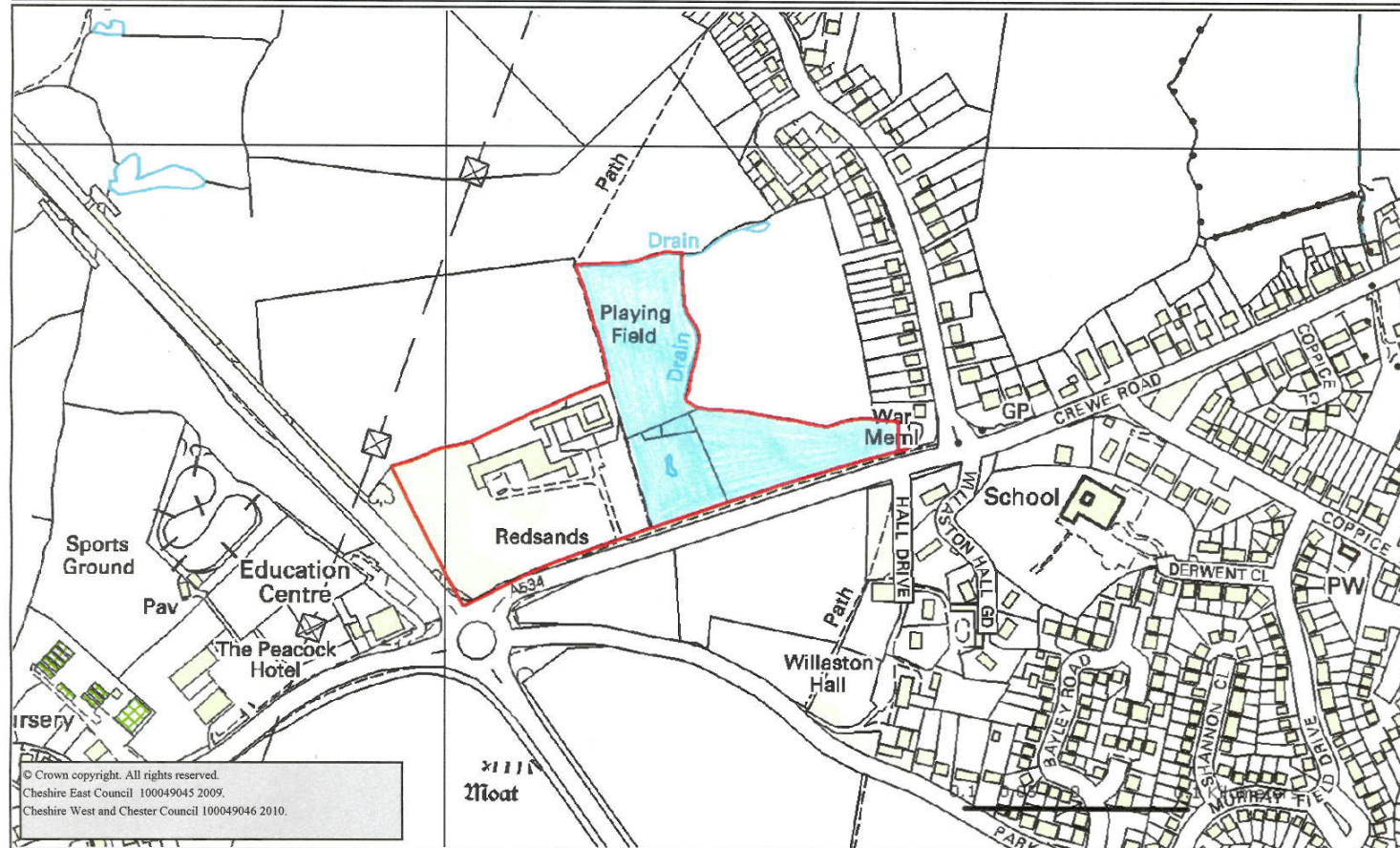
A project to identify and quantify current and future demand for the social care elements of the above is in the process of being commissioned. This work will allow more detailed specification of each of the above that will inform our development planning for the next five years.

At this point therefore it is not possible to state the precise mix for the Redsands site, however we have the *current* provision and usage for Extra Care Housing [1] and other data that should serve as a guide at this point (it should not however be regarded as a forecast).

[1]EXTRA CARE HOUSING BY LEVEL OF NEED	
Band 3 (highest)	97
Band 2	130
Band 1	160
Wellbeing (lowest)	156
Total	543

EXTRA CARE HOUSING BY DISABILITY TYPE	
Carer	36
Dual Sensory Loss	2
Frail/Temporary Illness	305
Hearing Impairment	6
Learning Disability	11
Mental Health – Dementia	17
MH other than dementia	24
Other Physical/sensory Loss	106
Other Vulnerable	26
Other Vulnerable- Welfare Benefits	2
Visual Impairment	8

[2] OTHER DATA	
Young people requiring specialist level-access accommodation due to the high-end Learning Disability/Autism presenting in last 2 years	8
Young people due to leave foster care during the next 3 years (may or may not have accommodation or life-skill needs)	60
Young people with disabilities due to transition into adulthood during the next 3 years	35
Young people with disabilities, currently in out-of-area placements, due to transition into adulthood during the next 3 years	26
Adults with Learning Disabilities in Supported Living arrangements – a proportion of whom may need alternative housing given changes in their needs e.g. single person accommodation or bungalow accommodation.	150



# CHESHIRE EAST COUNCIL

## REPORT TO: CABINET

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<b>Date of Meeting:</b>	17 <sup>th</sup> September 2012
<b>Report of:</b>	Strategic Director Places & Organisational Capacity
<b>Subject/Title:</b>	Congleton Town Centre – Bridestones Extension and Public Open Space Disposal Objection
<b>Portfolio Holder:</b>	Cllr Jamie Macrae

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### 1.0 Report Summary

- 1.1 The purpose of this report is for the Cabinet to consider an objection to the disposal of public open space, namely, land located off Princess Street, Congleton, to Scarborough Development Group (Congleton) Ltd (SDG) for development as part of the Bridestones Extension scheme in Congleton town centre, and to decide whether to proceed with the disposal on terms and conditions to be determined by the Director of Finance, Strategic Director Places & Organisational Capacity and the Borough Solicitor in consultation with the Portfolio Holder for Prosperity.
- 1.2 This well advanced scheme is an extension to the Bridestones Centre to deliver a retail led, mixed use redevelopment. The proposal includes a food superstore, specialist retail units, a new indoor and outdoor market, a new public square and car parking. The scheme will have planning permission granted once the section 106 agreement is signed.
- 1.3 On 31 October 2011 the Cabinet authorised the advertisement of the Council's intention to dispose of the open space within the development area and authorised the disposal of the three parcels of land referred to in 10.3 below subject to no objection being received in respect of the disposal of the open space.

### 2.0 Decision Requested

That Cabinet, having given consideration to the one objection received in response to the advertisement of the intention to dispose of the open space within the development area, approve the disposal of the Council's legal interest in land located off Princess Street, Congleton as described in 10.3 below to Scarborough Development Group (Congleton) Ltd (SDG) on terms and conditions to be determined by the Director of Finance, Strategic Director Places & Organisational Capacity and the Borough Solicitor in consultation with the Portfolio Holder for Prosperity.

### 3.0 Reasons for Recommendations

- 3.1 It is necessary for the Council to be proactive in leading the regeneration of

our town centres and utilising our asset base progressively is key to the approach. This approach will help us maximise a receipt from a disposal whilst delivering wider regeneration benefit.

- 3.2 The SDG scheme will bring economic, social and environmental benefits to The Council including improved infrastructure and public realm, connectivity within the town and new jobs. It is likely to encourage other property improvement in Congleton and fits with the Council's planning policies, and Corporate Strategy. The SDG scheme will bring about a number of positive improvements for Congleton town centre, including a better retail offer, much improved public realm and a new town square.
- 3.3 Cabinet previously resolved that the interests of the Council are best served by dealing with SDG in respect of the Council's assets at Princess Street and that the time is right to dispose of those assets as a catalyst to the revitalisation of the town centre. SDG has significant land ownership in the regeneration site, which it is unlikely to relinquish voluntarily to enable an alternative development, has secured a planning approval at material cost , has negotiated deals with the anchor end user occupier (Food Superstore) and has said that it is keen to start development as soon as conditions precedent to its intended agreement for long lease such as there being a pre-let of the indoor and outdoor market to a market operator and a temporary market being secured during the development period.

#### **4.0 Wards Affected**

- 4.1 Congleton Town East, Congleton Town West

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

- 5.1 Cllr David Topping, Cllr Roland Domleo, Cllr David Brown, Cllr Peter Mason, Cllr Gordon Baxendale and Cllr Andrew Thwaite

#### **6.0 Policy Implications including – Carbon Reduction**

- 6.1 Improving Congleton Town Centre will encourage more people to shop locally and will help reduce traffic and leakage to other neighbouring towns.

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 Disposal of the Princess Street car park and the market square and accommodation will generate a capital receipt for the Council as reported to Cabinet in October 2011.
- 7.2 There will be a loss of income from the disposal of the Princess Street car park as reported to Cabinet in October 2011 although this will be partly offset by reduced maintenance costs and there may be some displacement, particularly of long stay users, to other Council car parks in the town.

7.3 There will be a loss of income from the Fairground car park during the period of construction of the Bridestones extension as reported to Cabinet in October 2011 as it will house the temporary market pending delivery of the new market accommodation as part of the SDG scheme.

7.4 There will be a loss of income from the market operation as reported to Cabinet in October 2011.

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

8.1 In accordance with Section 123 (2A) of the Local Government Act 1972 the Council was obliged to publish notice of its intention to dispose of the open land at Princess Street for two consecutive weeks in a newspaper circulating in the area where the land is situated.

8.2 The Council has complied with this statutory requirement by placing adverts in the Congleton Chronicle on 31<sup>st</sup> May 2012 and 7<sup>th</sup> June 2012. The 1972 Act does not stipulate how long should be allowed for responses to be made but this Council, in common with others, generally allows 14 days for representations so the closing date for objections was 21<sup>st</sup> June 2012.

8.3 As well as a requirement to advertise, Section 123 provides that a principal Council may not dispose of land which consists of, or forms part of open space unless, before disposing of the land, consideration is given to any objections and/or representations which are made.

8.4 By the closing date one objection was received on 15<sup>th</sup> June 2012, copy attached.

8.5 The objection has been acknowledged by the Council and the objectors informed that their objection will be considered by the Council.

## **9.0 Risk Management**

9.1 Because the transaction is not intended to be subject to the EU Procurement Rules there will not be any development obligations within the agreement for lease and thereafter the long lease. Therefore, the Council will need to be satisfied that SDG is able and has commercial reasons to implement the planning permission before the long lease is granted to it.

## **10.0 Background**

10.1 Congleton is one of Cheshire East's key Sustainable Towns and presents an opportunity for significant social, economic and environmental regeneration.

10.2 This well advanced scheme is an extension to the Bridestones Centre on land at Princess Street to deliver a retail led, mixed use redevelopment. The proposal includes a significant food store, specialist retail units, a new indoor and outdoor market, a new public square and car parking. Previously it was

intended that there be a hotel within the scheme but the intended end user has withdrawn its interest and the scheme has been modified to exclude the hotel.

- 10.3 At the October 2011 Cabinet meeting, Cabinet authorised the disposal of three parcels of land in which the Council has interests being the existing Market (0.47 acres), Princess Street car park (0.53 acres) and the market office, store and public conveniences (see attached plan) subject to no objection being received in respect of the disposal of the open space.
- 10.4 In the longer term, the scheme could stimulate the refurbishment of the existing Bridestones Centre and create improved pedestrian circuits with Mill Street. Through our Sustainable Towns approach, the Council is working closely with small and medium sized retail outlets in the town to improve their offer and benefit from the increased footfall that the regeneration scheme will bring.
- 10.5 There is a clear rationale for investing in Congleton. It is one of the most important towns in terms of the local economy but there has been a lack of private investment in the centre for some years and the town centre has come under significant pressure from out of town shopping locations. The White Young Green Cheshire Retail Study Update (2011) identified that the centre would benefit from investment to stimulate economic growth.

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

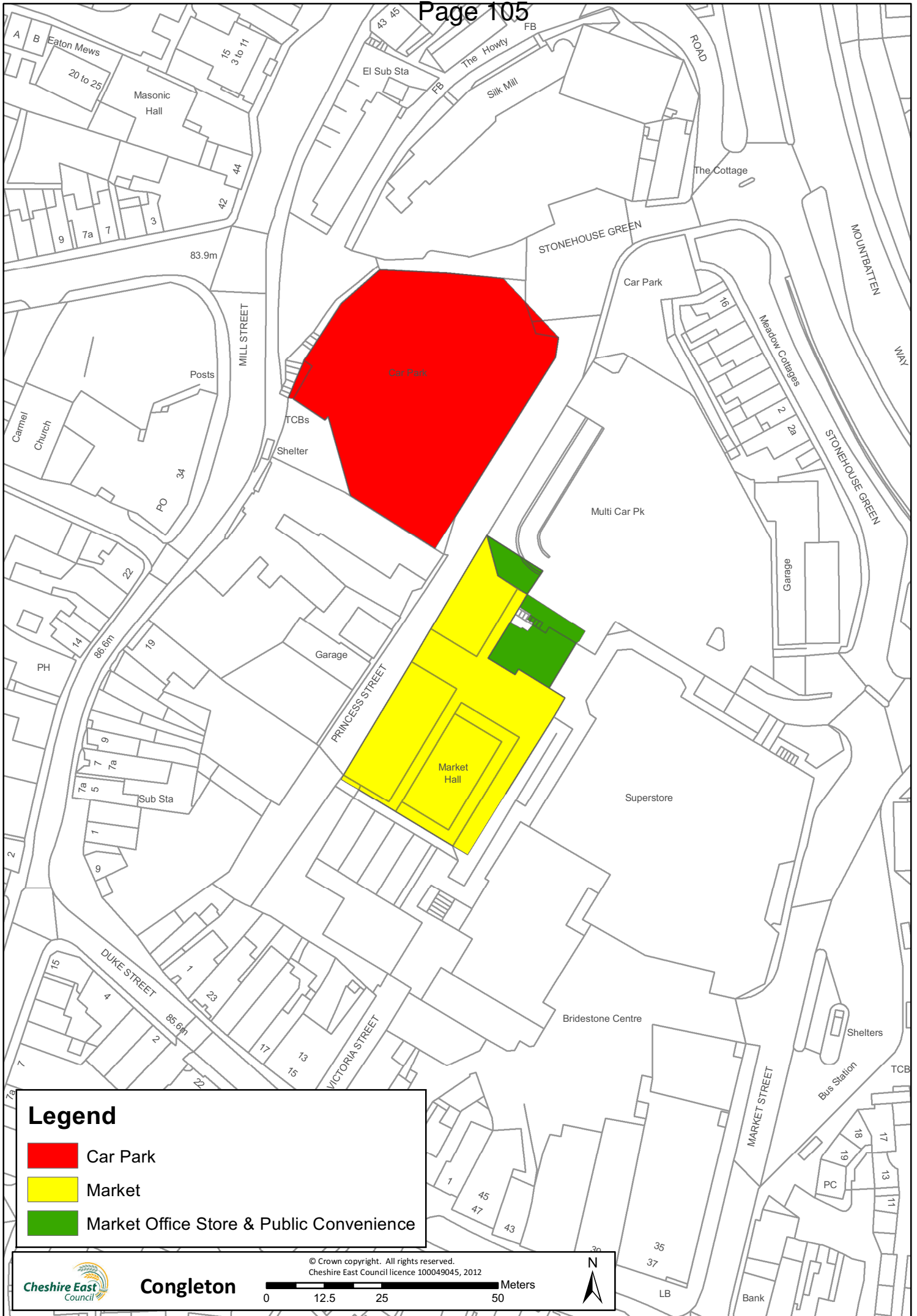
The background papers relating to this report can be inspected by contacting the report writer:

Name: Caroline Simpson

Designation: Head of Development

Email: [caroline.simpson@cheshireeast.gov.uk](mailto:caroline.simpson@cheshireeast.gov.uk)

Telephone: 01270 686640



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**Sent:** 15 June 2012 15:00

**To:** ELWOOD, Caroline

**Subject:** Disposal Of Land off Princess Street, Congleton

Dear Ms Elwood

In accordance with the notice in the Congleton Chronicle of 7 June 2012, we would wish to make clear our objections to the disposal of the land off Princess Street in Congleton.

This land is publically owned and the only reason for the suggested sale of the land is for the benefit of Scarborough Developments in their development of the Bridestones. The proposals, plans and planning permissions for this development have been modified a number of times but, under the current proposal, the only beneficiaries would be Scarborough Developments with a possible secondary benefit to William Morrisons who are the reported potential tenant of the new supermarket. This development offers no benefit to the town of Congleton and, although the market will be upgraded, this will result in significant cost, in the way of rental, to the people and traders of Congleton for many years to come.

If the land was being disposed of to provide enhanced amenities in Congleton, we would have no objection but the only true beneficiary of the disposal will be Scarborough Developments which is not even a local company

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: CABINET**

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<b>Date of Meeting:</b>	17 September 2012
<b>Report of:</b>	Strategic Director of Places and Organisational Capacity
<b>Subject/Title:</b>	Poynton Relief Road
<b>Portfolio Holder</b>	Councillor Jamie Macrae

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#### **1.0 Report Summary**

- 1.1 This report describes the stages necessary to investigate and identify a new preferred route for the Poynton Relief Road which could then be incorporated as a protected line into the emerging Local Plan.
- 1.2 A costed outline programme has been prepared to identify the work required and the timescale for delivery of the project up to an announcement of a Preferred Solution.
- 1.3 The report compares the programme for the development of the project with the current timescale for the production of the Local Plan.
- 1.4 The report also considers the anticipated timescale required to prepare a submission for devolved Local Major Transport Scheme funding.

#### **2.0 Decision Requested**

- 2.1 To authorise Officers to commence the necessary work to support investigation of a new preferred route for the Poynton Relief Road when funding is identified and available. This will include:

A draft Project Plan indicating the following key milestones, timescales and decision points:

- Milestone 1 – Approvals, Governance and Funding
- Milestone 2 – Preliminary Investigation and Scoping
- Milestone 3 – Data Gathering
- Milestone 4 – Option Development and Appraisal
- Milestone 5 – Consultation
- Milestone 6 – Scheme Assessment Report and Preferred route.

- 2.2 Members are also asked to note the indicative delivery programme and the key milestones for further Cabinet decisions. A summary of the key decision points is contained within Section 10.

### **3.0 Reasons for Recommendations**

- 3.1 The Council's endorsement of this report will allow feasibility work to be commenced to rigorously re-examine the route options for the project when funding is available. This is considered necessary following the closure of the Woodford Aerodrome, which previously presented a design constraint and the work on the emerging Local Plan.
- 3.2 The evidence base could support any potential funding application to the proposed Local Transport Body, which is expected to control decision making for new Major Transport Schemes.
- 3.3 The work proposed would better inform our continuing dialogue with Stockport Council on the interface of Poynton Relief road with the SEMMMS scheme at Chester Road and this will require resolution before a firm route / layout can be identified.
- 3.4 It is intended that the project development work is to be undertaken by the Council's Highway Services provider, Ringway-Jacobs within the scope of services procured through the recently awarded Highways Services Contract as this would avoid delay through a further procurement process enabling the programme to compliment the timescale of the Local Plan.

### **4.0 Wards Affected**

- 4.1 Poynton East and Pott Shrigley, Poynton West and Adlington.

### **5.0 Local Ward Members**

- 5.1 Local Ward Members include:
- Poynton East and Pott Shrigley – Cllr Howard Murray and Cllr Jos Saunders.
  - Poynton West and Adlington – Cllr Philip Hoyland and Cllr Roger West.

### **6.0 Policy Implications**

- 6.1 As part of the feasibility study of the route options a review will be made of the policy impact of the emerging technical solution.

- 6.2 The existing South East Manchester Multi-Modal Strategy (SEMMMS) traffic model will be used as part of the options appraisal and will provide key data to inform the impact on the air quality and congestion in the town.
- 6.3 The road would form a vital link in the Borough's wider infrastructure plan for Strategic Highways by forming part of a higher quality corridor linking SEMMMS through to M6 J17 via Congleton. This will support key development sites help retain existing businesses.
- 6.4 The existing protected route alignment passes through the Adlington Industrial Estate and is a constraint to the expansion of existing businesses.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 A Business Case will be required to be submitted to the Executive Monitoring Board for approval. The scheme will be considered as part of the Business Planning process for inclusion in the Capital Programme, subject to available funding.
- 7.2 If capital funding is used for this scheme to address development costs and a subsequent capital project was not forthcoming it would be necessary to fund these costs from revenue.
- 7.3 The existing Local Transport Plan programme has already been set and any revision to it would inevitably lead to a reduction of resource on other activities.
- 7.4 The indicative costs for each project milestone (below) are provided through the term highway contract. A formal fee quote procedure will be followed prior to the commencement of each stage to appraise value for money.
- 7.5 The costs associated with the development of the scheme are attributable to the promoting and protection of the scheme in the emerging local plan. It is considered that the evidence base to support future funding bids is a product of this work, rather than an additional task.
- 7.6 The initial budget estimate supplied by the Council's Highways Contractor to deliver the first four Milestones, subject to an internal challenge by the Highways Service is £930,000. The draft programme and procurement of the professional services through the current Highway Services Contract (Ringway Jacobs) would be the subject of

challenge by the Highways team to ensure its deliverability and value for money.

- 7.7 The Council has acquired [and inherited] land along the line of the existing protected route through Adlington Industrial Estate. Should a revised line be adopted the Council would have the opportunity to review the future use of this property.

#### Milestone 1 & 2 – Preliminary Investigation and Scoping

- 7.8 The estimated external cost for delivering this phase of work is £45,000. These costs would have to be met through a revision to the approved 2012/13 Local Transport Plan Programme or via additional capital funding.

#### Milestone 3 – Data Gathering

- 7.9 The estimated external cost for delivering this phase of work is £385,000. These costs would have to be met through a revision to the approved 2012/13 Local Transport Plan Programme or via additional capital funding.

#### Milestones 4 – Option Development & Appraisal

- 7.10 The estimated external cost for this stage of work is £500,000 however this will depend greatly on the findings at stage 3. To meet these predicted costs additional funding will be required to complement the Local Transport Funding budget. The programme shows much of this work being undertaken in the 2012/13 financial year.

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

- 8.1 It is necessary to ensure that any emerging proposals are robustly justified, assess that proposals are viable and to have sound reasons for any preferred course of action and solution so that it/they can be subject to scrutiny and the Council can be sure it satisfies the test of reasonableness and that the Council has the necessary evidence to respond to any possible objections to a preferred scheme. The study stages are intended to establish, from first principles, the underlying justification for the proposed scheme. As the Council moves forward into the planning / delivery phase and particularly, if and when, compulsory purchase or land assembly is pursued the Council will need to verify that the preferred solution is viable and there are sound reasons to proceed with it.
- 8.2 It is too early to predict the legal issues and considerations which will apply to this project and legal implications will be the subject of future Cabinet reports. However the following matters will/ may be relevant.

- 8.3 Depending on the preferred strategy, any major highway scheme would require the following statutory procedures:
1. Protected route process
  2. Planning permission
  3. Compulsory Purchase Procedures including in all likelihood a public enquiry
  4. Side Roads and Traffic Regulation Orders
- 8.4 If protected species as defined in the Conservation of Habitats and Species Regulations 2010/490 are likely to be impacted by any proposed scheme, full mitigation will have to be provided. This is likely to include a license application to Natural England who has to be fully satisfied before removing this constraint to development. It should be noted however that under these regulations the Council when exercising any of its functions must have regard to the requirements of the Habitats Directive (92/43/EEC) including the duty to consider whether there is a satisfactory alternative.
- 8.5 Other legal issues will include the drafting of legal agreements from potential developers and land owners to make financial contributions to a future scheme and advising on any third party contributions.

## **9.0 Risk Management**

### Local Plan

- 9.1 The principle of a relief road for Poynton was confirmed in the comprehensive SEMMMS (2001) study. This work does not propose to fundamentally review this principle but rather seeks to refine options for a road and test viability.
- 9.2 A protected route currently exists for the Poynton Relief Road. Route protection is currently held by the Highways Agency and the alignment is also shown and protected from obstructive development within the Macclesfield Local Plan 2004. The closure of the aerodrome provides an opportunity to optimise the route of the proposed road following the removal of this design constraint.
- 9.3 It is understood that the Highways Agency are seeking to remove the route protection for the extant scheme when the new local plan is adopted. It may be possible for the council to inherit this protected route. However, this route was determined following historical constraints and is considered to require revision. Establishing our

position on any new link road will support our negotiations with the Highways Agency going forward.

- 9.4 Ideally the principle of a new protected route for Poynton Relief Road would be included within the Core Strategy of the Local Plan which is currently programmed to be consulted on in Spring 2013 and thereafter submitted to the Secretary of State. The current outline programme for the project indicates that a protected route could be announced by Summer 2013 if funding were made available.
- 9.5 The later, detailed stages of the Local Plan (the site allocations) will set out policies and proposals on an ordnance survey base. The site allocations documents follow approximately one year behind the Core Strategy. Consequently the Core Strategy could include a revised 'Corridor of Interest' by Spring 2013 whilst the Draft Site allocations document could set out a detailed preferred route following its approval in the summer of 2013.
- 9.6 It is worth noting that there is some overlap between the work undertaken for the SEMMMS road scheme and that required to progress development work on the Poynton relief road. This programme and fee estimates assume that this work is made available and remains suitable for our purposes.

#### Milestone 1 – Approvals, Governance and Funding

- 9.7 The purpose of these stages is to identify a preferred road alignment and to develop a robust business case and justification for it such that any decision to deliver that solution satisfies the test of reasonableness thus reducing the risk of legal challenge at later stages.
- 9.8 It is necessary to follow a recognised and transparent evaluation methodology to successfully defend against challenge during the public consultation and inquiry stage of scheme development. The intention is to follow the process laid out in the Design Manual for Roads and Bridges (DMRB)
- 9.9 Any emerging scheme would be subject to a full public consultation exercise to support the statutory processes. This would enable local people to influence the design, raise concerns and make formal objections as the scheme develops.
- 9.10 To a certain extent project development work on major infrastructure projects always carries a certain amount of risk that funding can be sunk into a scheme that is never (or only partly) delivered. However, by following a recognised process and allowing for sufficient public consultation these risks can be minimised.
- 9.11 Project development work is required to provide evidence for a future potential funding bid for Local Major Schemes. This process is

expected to set major scheme priorities for the next spending review period (2015/16 – 2018/19) and requires a funding submission in April 2013. There is a risk that given the relatively short timescale to develop this evidence base the submission may be less robust than other competing schemes within the LEP area.

- 9.12 The Council has recently introduced a requirement for all major projects and programmes to be reviewed by a new corporate quality assurance group called the Executive Monitoring Board (EMB) before they can proceed. Major projects and programmes are defined where there is a total cost in excess of £250k and/or where there is significant risk. The project arising from this report will therefore need to be reviewed by the EMB prior to any approval to proceed being given.

## **10.0 Background and Options**

### General Background

- 10.1 The devolution of Local Authority Major Scheme funding to the proposed Local Transport Body (LTB) provides an opportunity to submit a funding application for the Poynton Relief Road.
- 10.2 A bypass for the town of Poynton has been planned for over 30 years and continues to be a strong local demand – established through recent consultation for the Local Transport Plan (3) and the Local Plan Town Strategy work.
- 10.3 Indeed, the scheme was in the Local Trunk Road programme in the 1990's and has the benefit of an extant Local Plan route protection. The comprehensive SEMMMS study (2001) confirmed the justification for the scheme.
- 10.4 Originally planned as a spur off the SEMMMS link road the scheme was developed and designed up and a robust cost benefit ratio established. Unfortunately, due to funding constraints it was necessary to promote the Poynton Bypass separately to the main SEMMMS scheme.
- 10.5 The main SEMMMS scheme now has a provisional delivery strategy after the award of Government funding. Discussions continue between CEC and the SEMMMS team to ensure the SEMMMS link road allows for the future provision of a Poynton Bypass.
- 10.6 Following the closure of BAE Woodford work is now underway to assess a more direct, cheaper alignment for the Bypass. This is likely to significantly strengthen its business case. Early estimates for the scheme put the delivery of the bypass at £20M excluding land and potential part 1 claims. Work on the Supplementary Planning Document for the site is underway but will focus primarily on the redevelopment of the main buildings (in Stockport) – and it must also reflect and expand

existing policy. Accordingly the SPD cannot define or protect a revised route alignment – but it can at least usefully highlight that an amended route is likely to be identified.

- 10.7 The outline programme for the production of the Core Strategy of the Local Plan indicates publication will take place between in the Spring of 2013 with submission to the Secretary of State late summer 2013. A detailed protected line would need to be identified for inclusion in the Local Plan Site Allocations document for consultation in Spring 2014.
- 10.8 Ideally an indicative protected route for WPRR would be included within the Core Strategy. The current outline programme for the project indicates that a protected route would be announced July 2013. It may be that a more defined 'Corridor of Interest' could be defined in the Local Plan. The initial programme indicates that we could provide this 'Corridor of Interest' by March 2013.

#### Major Scheme Funding

- 10.9 Funding of Local Authority Major Schemes has been devolved from central government to Local Transport Bodys (LTBS). The LTBs are yet to be formed but are anticipated to mirror the geography of the existing LEPs.
- 10.10 This provides an opportunity, if desired, to submit a funding application to the LTB for the Poynton Relief Road. This funding process is expected to set major scheme priorities for the next spending review period (2015/16 – 2018/19) and requires a funding submission in March/April 2013.

#### Scheme Development

- 10.11 The purpose of this report is to inform the Cabinet of the proposed approach to the development and appraisal of options in order to aid the decision making process to approve progression to a Preferred Route Announcement.
- 10.12 It is proposed to deliver the project in accordance with the requirements of the Design Manual for Roads and Bridges (DMRB), in the form of a series of milestones. This approach will also provide a robust evidence base for a potential bid for Local Major Scheme Funding The current timescale for this funding submission is April 2013. The Project Plan, (which forms part of Milestone 1) specifies these milestones and associated milestone activities as detailed below:

#### **Milestone 1: Approvals and Governance**

- Project Plan
- Devolved Major Scheme Funding Application

### **Milestone 2: Preliminary Investigation and Scoping**

- Project Plan
- Appraisal Specification Report
- Environmental Scoping Report
- Geotechnical Statement of Intent

### **Milestone 3: Data Gathering**

- Noise and Air Quality Desk Study
- Preliminary Sources Scoping Report (Geotechnical Desk Study)
- Hydrology Desk Study
- Landownership Survey
- Phase 1 Habitat Survey
- Landscape Survey
- Cultural Heritage Survey
- Review Traffic Modelling

### **Milestone 4: Options Development and Appraisal**

- Option Development Stage 1
- Stage 1 WebTAG Appraisal
- Option Development Stage 2
- Assessment of Structures Report
- Environmental Impact Assessment Report
- Initial Traffic, Economics and Accident Report
- Stage 2 WebTAG Appraisal
- Technical Appraisal Report

### **Milestone 5: Consultation**

- Stage 1 Scheme Assessment Report
- Exhibition Material
- Public Consultation
- Public Consultation Report

### **Milestone 6: Stage 1 Scheme Assessment Report**

- Stage 2 Scheme Assessment Report and Preferred Solution

### Outline Programme

10.13 A draft programme has been produced which covers the Options Appraisal stage leading to the announced of preferred solution and route. The following table summarises the key milestones, assuming funding is identified and a start can be made by October 2012:

Stage / Milestone	Deliverables	Delivery Date
<b>Milestone 1 – Approvals, Governance and Funding</b> <ul style="list-style-type: none"> <li>• Project Plan</li> <li>• Devolved Major Scheme Funding Application</li> </ul>	Commence preparation of evidence base to support funding bid	September 2012
<b>Milestone 2 - Preliminary Investigation and Scoping</b> <ul style="list-style-type: none"> <li>• Project Plan</li> <li>• Appraisal Specification Report</li> <li>• Environmental Scoping Report</li> <li>• Geotechnical Statement of Intent</li> </ul>	Commence review of Traffic Model and identify additional data gathering requirements.	October 2012
<b>Milestone 3 - Data Gathering</b> <ul style="list-style-type: none"> <li>• Noise and Air Quality Desk Study</li> <li>• Preliminary Sources Scoping Report (Geotechnical Desk Study)</li> <li>• Hydrology Desk Study</li> <li>• Landownership Survey</li> <li>• Phase 1 Habitat Survey</li> <li>• Landscape Survey</li> <li>• Cultural Heritage Survey</li> <li>• Review Traffic Modelling</li> </ul>	This stage completes various surveys and desktop studies including; Noise and Air Quality, Geotechnical, Hydrology, Landownership, Phase 1 Habitat, Landscape and Traffic Modelling. <u>The existing SEMMMS Traffic Model will be used to support the options appraisal. This programme assumes that the model is fit for purpose and that additional work is not required.</u>	September 2012 – November 2012
<b>Milestone 4 - Options Development and Appraisal</b> <ul style="list-style-type: none"> <li>• Option Development Stage 1</li> <li>• Stage 1 WebTAG Appraisal</li> <li>• Option Development Stage 2</li> <li>• Assessment of Structures Report</li> <li>• Environmental Impact Assessment Report</li> <li>• Initial Traffic, Economics and Accident Report</li> <li>• Stage 2 WebTAG Appraisal</li> <li>• Technical Appraisal Report</li> </ul>	Running in parallel and informed by Milestone 3 activity this includes the options appraisal and development stage and writing the various stages of the outline business case to support the scheme through the new Major Scheme Funding Process.	October 2012 – February 2013
<b>Milestone 5 – Consultation</b> <ul style="list-style-type: none"> <li>• Stage 1 Scheme Assessment Report</li> <li>• Exhibition Material</li> <li>• Public Consultation</li> <li>• Public Consultation Report</li> </ul>	The Stage 1 Scheme Assessment Report is prepared and used to inform the public consultation process.	February 2013 – June 2013
<b>Milestone 6 – Scheme Assessment Report</b> <ul style="list-style-type: none"> <li>• Stage 2 Scheme Assessment Report and Preferred Solution</li> </ul>	This report draws together all the work undertaken to date, the output from the public consultation process and will be used to present the recommendation for <u>Preferred Route / Scheme to Cabinet</u> – leading to potential route protection.	May 2013 – July 2013

10.14 Linked to the key milestones set out above, the following approval stages are proposed up to the end of Milestone 6:

Decision Required	Decision maker and indicative date			
	Cabinet	Portfolio Holder	Delegated Director	Head of Service
Briefing – Preliminary Investigation and Scoping		Oct 2012		
Agree Target cost for each Milestone within budget thresholds identified.				X
Outline Business Case	Jan 2013			
Proceed to Consultation	Jan 2013			
Briefing – Public Consultation Report		June 2013		
Approval of Preferred Solution	June 2013			

## 11.0 Access to Information

The background papers relating to this report:

- Summary Outline Programme and Expanded Task List
- Project Plan
- Proposed Project Governance

can be inspected by contacting the report writer:

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO: Cabinet**

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**Date of Meeting:** 17<sup>th</sup> September 2012  
**Report of:** Strategic Director – Places & Organisational Capacity  
**Subject/Title:** South Macclesfield Development Area – Notice of Motion  
**Portfolio Holder:** Councillor J Macrae

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#### **1.0 Report Summary**

1.1 At its meeting of 28<sup>th</sup> May 2012, Cabinet endorsed the overall outline vision and delivery strategy for the regeneration of the South Macclesfield Development Area (SMDA), a 63 hectare strategic site in the north of the Borough, which includes land in the Council's ownership.

1.2 In addition, Cabinet agreed to the commencement of work to define a set of intentions for the masterplanning process for SMDA, and to develop the procurement strategy to select a development partner through the Official Journal of the European Union (OJEU).

1.3 At the Council meeting held on 19<sup>th</sup> July 2012 the following Notice of Motion was submitted by Cllr D Druce in relation to the South Macclesfield Development Area:

*"This Council supports the development of South Macclesfield Development Area which would deliver many regeneration and wider benefits including a new link road connecting Congleton Road and Leek Road."*

1.4 The purpose of this report is to:

1.4.1 Provide a status update in respect of the work being undertaken in pursuance of the Cabinet decision.

1.4.2 To respond to the Notice of Motion submitted to the Council by Cllr D Druce

#### **2.0 Decision Requested**

2.1 That Cabinet note the status update in respect of the work being undertaken with respect to the regeneration of the South Macclesfield Development Area.

2.2 That Cabinet note the response to the Notice of Motion.

### **3.0 Reasons for Recommendations**

- 3.1 The Council is fully committed to the redevelopment of South Macclesfield Development Area and the provision of new infrastructure. Work will shortly commence to masterplan the site and investigate the land use options and commercial viability of the site which will inform whether the site can proceed to delivery. Following a procurement exercise a consultancy team led by BE Group has been appointed to support the Council in this process.

### **4.0 Wards Affected**

- 4.1 Macclesfield South and Gawsorth

### **5.0 Local Ward Members**

- 5.1 Cllr Damien Druce, Cllr Laura Jeuda and Cllr Lesley Smetham.

### **6.0 Policy Implications including – Carbon Reduction - Health**

- 6.1 No implications further to Cabinet Report of 28<sup>th</sup> May 2012.

### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 No implications further to Cabinet Report of 28<sup>th</sup> May 2012
- 7.2 In the event that preliminary expenditure does not lead to the development of capital schemes, it will need to be written off to the revenue account.

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

- 8.1 No implications further to Cabinet Report of 28<sup>th</sup> May 2012

### **9.0 Risk Management**

- 9.1 A live 'Risk Matrix' is also in place and is being monitored through the course of the project using the Council's Project Management Framework.

### **10.0 Background and Options**

- 10.1 At the Cabinet Meeting of 28<sup>th</sup> May 2012 the Council endorsed the overall decision and delivery strategy for the site, and agreed to the commencement of work as detailed.

- 10.2 Cllr D Druce submitted a Notice of Motion to Council on 19th July as follows:

*"This Council supports the development of South Macclesfield Development Area which would deliver many regeneration and wider benefits including a new link road connecting Congleton Road and Leek Road."*

- 10.3 The following response was provided to Council:

*"The Council is fully committed to the redevelopment of South Macclesfield Development Area and the provision of new infrastructure. Work is commencing shortly to masterplan the site and investigate the land use options and commercial viability of the site, which will inform whether the site can proceed to delivery."*

- 10.4 A procurement exercise has been undertaken through the Council's Matrix framework to engage a masterplanning consultancy to undertake the first phase of work this financial year. From this, a team comprising BE Group as lead consultants, working in collaboration with AECOM, have been selected to undertake the tasks.
- 10.5 A parallel procurement exercise has been undertaken through the Council's Consultancy Framework to engage with consultants to carry out the environmental appraisal of SMDA, White Young Green Planning, Environment & Design have been selected as lead consultants to carry out this work.

## **11.0 Access to Information**

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

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## **CESHIRE EAST COUNCIL**

### **REPORT TO : Cabinet**

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<b>Date of Meeting:</b>	17 <sup>th</sup> September 2012
<b>Report of:</b>	John Nicholson – Strategic Director, Places and Organisational Capacity
<b>Subject/Title:</b>	Motion on Highway Maintenance Funding Allocation
<b>Portfolio Holder:</b>	Cllr. Rod Menlove - Environmental Services Portfolio Holder

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#### **1.0 Report Summary**

- 1.1 This report considers the Notice of motion on Road Maintenance (proposed by Cllr D Brickhill and seconded by Cllr A Moran) to Cabinet for determination.
- 1.2 The motion is that the approach to the assignment of funding for road maintenance is based on:-

*“That all pre planned road maintenance (except pothole filling) is to be carried out on an equal expenditure basis per Ward in direct proportion to the electorate in that Ward, unless the relevant parish councils resolve that they are satisfied with the state of their roads. A monthly report to all Councillors is to be published by 15<sup>th</sup> of each month by the Highways Department showing the work done in the previous month and the work to be done in the next month.”*

#### **2.0 Recommendation**

- 2.1 It is proposed that planned maintenance activity continues to be identified and prioritised based on the condition of the network.
- 2.2 That the programme for the forthcoming month, as well as the works undertaken in the preceding month is published on the Service Information Centre (SIC) and is reported at a LAP level.

#### **3.0 Reasons for Recommendation**

- 3.1 The authority has invested in software that allows the local highway officers to view the overall condition of the network; this software when combined with the JCAM tool introduced by Cheshire East Highways allows the team to prioritise investment such that the best value solution can be delivered.
- 3.2 The tools use data that is collected using nationally accredited survey techniques, the output is therefore objective and repeatable.

- 3.3 The tools are customisable to allow for different classes of road to be treated in different ways. This means, quite correctly, that Principal roads will be governed by a wholly different rule set to that which is used for unclassified roads including estate roads and cul-de-sac.
- 3.4 The current method also links back to the Code of Practice for Highway Maintenance, Well Maintained Roads. This document groups similar road types together (main roads, busy distributor roads, quiet cul-de-sac etc.) and determines, from a risk management perspective, how a particular class of road is to be inspected and, by inference, maintained.
- 3.5 The systems' output is used to determine the treatment required and will also attribute a budget estimate to the scheme. In addition the system also tells the user how the scheme will impact on the performance indicator that is relevant to that section of road. These two pieces of data can then be combined to produce a cost benefit analysis for the scheme and a ranked priority.
- 3.6 It is also important to remember that some schemes will not be seeking to address the structural condition of a road but will be treating a different problem, for example low skid resistance.
- 3.7 By keeping the decision making process at a Borough level Cheshire East Highways' engineers are then able to best deliver a coherent programme of work that ensures that a similar level of service is delivered to all areas.

If budgets were to be split proportionately across the LAP areas based on population then there will, over a period of time, come a point where roads of a lower priority are being treated in some areas to use budget whilst in others there would be insufficient budget to treat higher priority roads.

#### **4.0 Wards Affected**

- 4.1 All Wards are affected.

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

- 5.1 All Ward Members are affected by the proposal.

#### **6.0 Policy Implications including**

- 6.1 If the recommendation is accepted then there are no policy implications as a consequence of this paper.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Studies)**

- 7.1 The recommendation does not have a financial implication based on the planned works being within the existing highway budget provision.

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

- 8.1 The Borough has a legal duty to maintain the public highway under its control. Maintenance policy must therefore be consistent throughout the Borough to prevent potential legal challenge.

**9.0 Risk Management**

- 9.1 Failure to maintain roads in a consistent and coherent manner will potentially expose the authority to legal challenge.
- 9.2 Public perception, particularly in those areas where spend is seen as being less, will be adversely affected.
- 9.3 Potential that the available funding based on electorate is insufficient to complete works identified in the ward in any financial year resulting in further deterioration.
- 9.4 Failure to maintain key routes could result if funding was electorate based. In wards with a low electorate but with critical strategic transport routes, funding could be significantly reduced, with the likelihood of preventing important works being progressed resulting in the potential for failure on key routes. This would be damaging to significant numbers of travellers and to business and the wider economy of the Borough.

**10.0 Background and Options**

- 10.1 Not applicable

**11.0 Access to Information**

- 11.1 The background relating to this report can be reviewed by contacting the report writer:

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## **CHESHIRE EAST COUNCIL**

### **REPORT TO : Cabinet**

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<b>Date of Meeting:</b>	17 September 2012
<b>Report of:</b>	John Nicholson – Strategic Director, Places and Organisational Capacity
<b>Subject/Title:</b>	Motion on A500/J16 junction
<b>Portfolio Holder:</b>	Cllr. Rod Menlove - Environmental Services Portfolio Holder

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#### **1.0 Report Summary**

- 1.1 This report considers the Notice of motion on the Congestion experienced at Junction 16 of the M6 (proposed by Cllr D Brickhill to Cabinet for determination.
- 1.2 The motion reads:

*"The Chief Executive of this Council be instructed to write immediately to the Highways Minister, and to local MPs, expressing this Council's concern in the strongest possible terms at any further delay in addressing the need for remedial work to ease the serious congestion at Junction 16 of the M6 and seeking an assurance that works can commence to the M6/A500 junction before the end of 2012."*

#### **2.0 Recommendation**

- 2.1 That the Council continues to work with the developer and the Highway Agency to secure an agreement of both the design and delivery of the improvement scheme at the earliest opportunity.

#### **3.0 Reasons for Recommendation**

- 3.1 As part of the planning permission for the Basford West scheme (ref P03/1071) the developer is required to upgrade the roundabout at junction 16 and widen the A500 approach from Crewe to deal with increased traffic from the development site. In the short term this improvement will also benefit existing traffic flows benefitting both local businesses and residents alike.
- 3.2 This upgrade consists of:
- Improved and widened slip roads off the M6 at junction 16;
  - Traffic lights to better manage traffic flow around the junction 16 roundabout, with the roundabout widened to three lanes;

- Provision of additional lanes on the A500 approach to junction 16 over a length of approximately 600 metres;
- 3.3 The developer is fully committed to the improvements, has undertaken a tendering exercise and has nominated a preferred contractor to deliver the scheme.
  - 3.4 The contractors initial delivery programme shows a construction period of 7 – 8 months.
  - 3.5 In order to deliver the scheme it is necessary for the developer enter into agreements with Cheshire East Council as Highways Authority for the A500 and with the Highways Agency (HA) as the authority for the Motorway network.
  - 3.6 The developer's latest build programme involves a start on site late October 2012. However, there are still some potential issues between the developer and the HA that need to be resolved, which suggests this date may slip back.
  - 3.7 The necessary agreements with CEC are well advanced and it is considered that there are no impediments to meeting the developers target timetable.
  - 3.8 There are, however outstanding issues to still be resolved with the Highways Agency – these include:
    - ◆ The design of the scheme may require “departures” from HA design criteria. This process is ongoing, with negotiations taking place between the developer's designer and the HA team to determine which aspects of the design, if any, require sign off through the HA's formal “departures” approvals process.
    - ◆ The junction lies at the boundary of two different Highways Agency regional offices. This requires different teams and consultants to manage the design and delivery stages and has lead to additional complexity in the co-ordination of this scheme with other planned works.

CEC staff continue to be involved in supporting the dialogue between the HA and the developer and continue to engage, at a senior level, with Highway Agency personnel.

- 3.9 Given the issues described above, it seems likely that construction will not commence by October 2012 as anticipated by the developer. Further updates will follow as the position on these issues becomes clearer.

#### **4.0 Wards Affected**

- 4.1 All wards in the South of the Borough, including Shavington & Haslington.

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

- 5.1 Cllr David Brickhill  
Cllr John Hammond  
Cllr David Marren

#### **6.0 Policy Implications including**

- 6.1 Delivery of strategic employment sites as allocated in the Local Plan which will benefit the 'All Change for Crewe' programme.

#### **7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 The recommendation does not have a financial implication.

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

- 8.1 The Borough has a legal duty to manage the public highway under its control including the co-ordination of third party works. There is a s106 agreement with the developer that requires improvements to Junction 16 of the M6 before construction of the buildings on the Basford West development can commence. Furthermore the developer is in the process of negotiating a s278 agreement in relation to those improvements with the Council. The S278 agreement will relate only to those works for which the council is the Highway Authority – specifically the widening works on the A500.

#### **9.0 Risk Management**

- 9.1 The Basford West development supports the economic growth of Crewe and is a key employment allocation. Until the works at J16 are delivered Basford West cannot implement their planning permission.
- 9.2 Until the J16 works are delivered the initial benefits of reduced traffic congestion on the A500 corridor will not be realised.

#### **10.0 Background and Options**

- 10.1 Not applicable

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

- 11.1 The background relating to this report can be reviewed by contacting the report writer:

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## CHESHIRE EAST COUNCIL

### REPORT TO: CABINET

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<b>Date of Meeting:</b>	17 <sup>th</sup> September 2012
<b>Report of:</b>	Director of Finance and Business Services
<b>Subject/Title:</b>	Benefit Awareness – notice of motion
<b>Portfolio Holder:</b>	Cllr Peter Raynes – Portfolio Holder for Finance

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#### 1.0 Report Summary

- 1.1 To consider a notice of motion submitted by Cllr L Jeuda and Cllr G Boston at the meeting of full Council held on 19<sup>th</sup> July 2012. The notice of motion stated that:

*‘A recent report by the WRVS, Ageing across Europe, has found that older people in the United Kingdom have the highest rates of loneliness and isolation than in Germany, the Netherlands and Sweden. Many older people are living in poverty and this affects their life expectancy and risk of social isolation. Given that £2.8million in Pension Credit goes unclaimed every year in the UK, whilst 1.8 million older people are living in poverty demands urgent action.*

Motion

*“This Council undertakes to conduct a campaign aimed at older people making them aware of benefits they are entitled to.*

*At the same time Cheshire East to provide additional funding to those organisations currently struggling to meet the demand for Benefits advice.” ‘*

#### 2.0 Decision Requested

- 2.1 The Cabinet are asked to consider the Notice of Motion.

#### 3.0 Reasons for Recommendations

- 3.1 To determine a response to the Notice of Motion in line with the Council’s constitution.

#### 4.0 Wards Affected

- 4.1 All Wards are affected.

## 5.0 Local Ward Members

5.1 None specifically – all wards affected

## 6.0 Policy Implications

6.1 Cheshire East Council has a duty to promote the take up of Benefit, which is being met. This is outlined in Section 10 of this report.

## 7.0 Financial Implications (Authorised by the Director of Finance and Business Services)

7.1 There are no immediate direct financial implications arising from this report. However, depending on the adoption of the recommendations arising from Section 10 of this report may result in the Council incurring additional costs.

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

8.1 There are no legal implications in respect of this report.

## 9.0 Risk Management

9.1 Take up and support is already being provided directly by the Council and indirectly via funding to other organisations.

## 10.0 Background and Options

10.1 The Department for Work and Pensions (DWP) released estimates on the take up of Income related benefits on 23<sup>rd</sup> February 2012. The table below shows the figures for Pension Credit and in addition Housing Benefit and Council Tax Benefit (which can also be claimed by those of working age).

**Table 1** Take up of Income Related Benefits (published February 2012)

	Pension Credit	Housing Benefit	Council Tax Benefit
Take up in 2009/10 – by caseload	62-68%	78-84%	62-69%
Take up in 2009/10 – by expenditure	73-80%	84-90%	64-71%
Claimants in 2009-10	2.6m	4.07m	5.19m
Expenditure in 2009-10	£7.64bn	£16.6bn	£4.23bn
Estimated number not claiming	1.21-1.58m	0.75-1.14m	2.34-3.20m
Amount unclaimed	£1.94-£2.80bn	£1.85-£3.10bn	£1.7-£2.42bn

10.2 The Pension Service is responsible for the administration and promotion of Pension Credit.

10.3 They have been unable to provide any information on planned forthcoming take-up initiatives promoting Pension Credit within the Cheshire East borough.

- 10.4 A White Paper is due later this year with details on proposals to replace the current state pension with the various additional entitlements, with a simple flat-rate state pension for new pensioners. This will be set above the level of the means test, currently estimated around £140 per week.

**Current arrangements within Cheshire East Council**

- 10.5 Currently both the Client Finance Team within Adults Services and the Benefits Team within Finance have staff who undertake proactive work promoting the take up of Pension Credit and other benefits and financial assistance to ensure customers have access to their full welfare benefit entitlement. This is not just targeted to Pension Age but Working Age also. Both Teams have officers who visit those who are elderly or housebound to provide support in their own home.
- 10.6 Adults' Client Finance Service currently offers Appointeeship and Deputyship to customers who do not have capacity to manage their own finances and at the same time welfare benefit checks are completed to ensure these customers receive the correct level of welfare benefits.
- 10.7 Advisors in Customer Services also signpost and offer assistance to customers who do not appear to be claiming their full entitlement and Library Staff also offer sign posting.
- 10.8 'Hot Spots' is a scheme involving Cheshire East Council Benefits and Private Sector Housing teams, the Fire Service and the Energy Savings Trust. The aim of the scheme is to tackle fuel poverty, to maximise income and improve health and well-being. The Hotspots card is offered to residents of Cheshire East giving them the opportunity to request assistance from any of the services. Any cards returned to the Benefits Section prompt an initial phone call to discuss benefit maximisation and if necessary a home visit to discuss the matter in depth. The cards are currently being distributed at a local project on The Moss estate in Macclesfield.
- 10.9 A new Welfare Rights Group for Cheshire East has been established, in May 2012. This involves various agencies and organisations working closely together and looks at opportunities for promoting benefits advice.

**Current financial support**

- 10.10 The Council does currently provide funding to many community and voluntary organisations, although substantial financial pressures are requiring all areas of funding to be reviewed and where possible reduced. The pressure to balance the 2012/13 budget may result in further reductions in the grant funding available to voluntary bodies during the remainder of the year and potentially into later years, subject to the budget setting processes. The new Health and Wellbeing duties will provide the Council with the responsibility and potentially additional funding to establish a new Healthwatch organisation, which will have

some limited general responsibilities to promote the take up of benefits within the locality.

#### **Impact of Welfare Reform changes and pensioners**

- 10.11 As part of the coalition Government's welfare reform, many changes are being introduced across the welfare benefits system. Those of Pension Credit age will be exempt from the majority of the changes such as:
- Benefits Cap
  - Introduction of Universal Credit
  - Introduction of Personal Independence Payment
  - Under-occupancy by Housing Association tenants
- 10.12 Much of the current work being undertaken by Officers is around advice and support for those residents of Cheshire East who will be affected by the changes referred to in 10.11.

#### **New opportunities and options**

- 10.13 Any options to be considered must be affordable and able to be met from the existing council budget.
- 10.14 Currently, Client Finance Team is focussed on the stabilisation of processes, including the systems and processes supporting the Empower Card, and the collection and prevention of overdue and outstanding debt whilst the Benefits Team continues to focus on an increasing number of individuals claiming benefit and preparing for the impact of welfare reform. There is no available capacity to undertake any additional take up work aimed specifically at Pensioners. Whilst undertaking the responsibilities of Client Finance and Benefits any face to face opportunities with residents of Cheshire East will be utilised to maximise benefit take up. A further option could be to explore funding additional resource but this would require increased funding for a post (grade 6).
- 10.15 Over time it could be possible to divert some existing grant funding mentioned in paragraph 10.10 into priorities that focus on the welfare benefit take up of the over 65 population. This would require definitive action as part of the Council's budget and policy setting process. In the short term the Council's focus is on reducing spending levels to within existing budgets, leaving little opportunity to flex funding during the remainder of the financial year.

### **11.0 Access to Information**

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

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## CHESHIRE EAST COUNCIL

## REPORT TO: CABINET

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Date of Meeting:	17 <sup>th</sup> September 2012
Report of:	Head of HR and OD
Subject/Title:	Notice of Motion – Suspension Of Employees Accused of Misconduct
Portfolio Holder	Cllr Barry Moran

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**1.0 Report Summary**

- 1.1 This report invites Cabinet to consider the following Motion, proposed by Councillor Murphy which has been referred by Council to Cabinet for consideration. The Motion stated that “In the light of apparent inconsistencies in the use of suspension for disciplinary offences, this Council calls for a review of its practices in this respect with particular reference to the criteria used to determine whether or not suspension is appropriate.”

**2.0 Recommendation**

- 2.1 That Cabinet consider that the procedures the Council already has in place ensure that each individual case is considered properly on its own merits and that suspensions are used in a consistent manner, as appropriate. Cabinet will not therefore be taking any further action in response to this notice of motion.

**3.0 Reasons for Recommendations**

- 3.1 To enable Cabinet to consider the Notice of Motion.

**4.0 Wards Affected**

- 4.1 None

**5.0 Local Ward Members**

- 5.1 None identified.

**6.0 Policy Implications**

- 6.1 The Council has a clear policy and procedure. Any changes to how the Council considers and manages the question of suspension may have implications for the Disciplinary Policy, Procedure and related guidance.

**7.0 Financial Implications (Authorised by the Director of Finance and Business Services)**

- 7.1 None identified specifically however, there could potentially be financial implications as outlined in 9.1 below should a case ultimately be considered by Employment Tribunal or in the appropriate court.

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

8.1 As identified in paragraphs 9.1 to 9.2.

## **9.0 Risk Management**

9.1 Employers face two potentially conflicting risks in considering suspension. Firstly should an employer have un-necessarily suspended an employee and should the employee successfully assert in legal proceedings that this has had an adverse impact on their ability to work within their professional capacity since and ongoing into the future, damages could potentially be awarded against the employer.

9.2 Conversely, should an employer not suspend an employee or delay the suspension and should the employee be subsequently dismissed on the grounds of gross misconduct, the employee may seek to use the considerations around their suspension to strengthen their case. Dependent upon the circumstances this may have a material impact upon their claim.

9.3 Inappropriate use of suspensions could also have an adverse effect on employee and Trade Union relations.

## **10.0 Background**

10.1 On 19<sup>th</sup> July 2012 Council considered a Notice of Motion submitted by Councillor Murphy on apparent inconsistencies in the use of suspension for disciplinary offences and calling for a review of the Council's practices in this respect with particular reference to the criteria used to determine whether or not suspension is appropriate.

10.2 The Council has a clear policy and procedure, the practice of which is guided by HR to ensure fairness and consistency. Under the Council's policy, suspension may occur where an allegation has been made of:

- Gross misconduct, or
- Misconduct - and the continued presence of the employee in the workplace may impede the investigation, or
- Misconduct, the nature of which could involve potential risks to clients or other employees, or
- Misconduct - and it is in the best interests of the employee that they do not attend the workplace.

10.3 Whilst suspension is not of itself generally considered to be a disciplinary action and there is no guilt attributed to an employee on suspension, it can be a very threatening and damaging experience for the individual. It must not therefore be undertaken as an automatic response to any allegation particularly where there may be strong evidence to support the view that the allegation may be vexatious.

- 10.4 It should also be noted for information, that recent case-law as below has identified some circumstances in which suspension may not be considered to be a neutral act. Where suspension is found later not to have been a neutral act this opens up the potential for claims of damages.
- 10.5 In some exceptional circumstances the employee may be allowed to continue at work, restricted to specific duties or may be temporarily redeployed to another job.
- 10.6 During a period of suspension the employee will continue to receive their normal wage/salary (which may for example, be sick pay if they are unfit for work) i.e. the pay that they would have received if not suspended.
- 10.7 Suspension has historically been considered to be a neutral act and our policies continue to confirm that Cheshire East Council considers it to be such. Recent case law has however, determined that this may not be the case in certain circumstances.
- 10.8 The case of *Mezey v South West London and St George's Mental Health NHS Trust* 2010 (Court of Appeal) primarily dealt with the issue of whether an employee could seek an injunction in relation to her suspension pending the trial of the disciplinary issue. The Court of Appeal granted the injunction, finding that, *"at least in relation to the employment of a qualified professional in a function which is as much a vocation as a job. Suspension changes the status quo from work to no work, and it inevitably casts a shadow over the employee's competence. Of course this does not mean it cannot be done, but it is not a neutral act."*
- 10.9 In another case, *Crawford v Suffolk Mental Health Partnership NHS Trust*, 2012 (Court of Appeal) two nurses accused of assaulting a patient were suspended and later dismissed. They went on however, to win an unfair dismissal claim. The Court of Appeal judge expressed concern that many employers automatically responded to allegations of misconduct with suspension. He further said such "knee-jerk reactions" were a breach of the duty of trust and confidence towards the employee.
- 10.10 By contrast, in the case on *Qasim v Central Manchester Hospitals NHS Foundation Trust* 2009 QBD the High Court refused to grant a doctor an interim injunction lifting her exclusion from work by an NHS Trust pending an investigation into allegations given the seriousness of the concerns that led to the decision to exclude and in particular the potential damage both to patients' interests and the proper and efficient functioning of the service. In other words, the course likely to involve the least risk of injustice and/or harm if it turned out to be wrong, was to refuse the request to return to work.
- 10.11 These cases highlight the legal complexities in relation to suspension and that suspension should only been taken with due care. Managers must have considered and balanced the need for the suspension, for instance the need for the investigation to be undertaken unhindered or in order to protect the service in the interim, against the fact that for the employee in question, such suspension may not

be a neutral act. As such, the employer could be in breach of contract and open to the employee seeking an injunction and/or damages for constructive dismissal or personal injury.

10.12 In accordance with the Council's Disciplinary Policy, Procedure and practices, in determining whether an employee should be suspended, managers will work their way through a number of steps, with the close support of experienced HR colleagues. This will include the following:

- Consider whether the allegation could be construed as gross misconduct
- Consider the question of consistency, i.e. what has the Council done previously in the same or very similar circumstances
- Undertake a prima facie review of the matter. This dependent upon the circumstances, could include the following considerations; to review any evidence relating to the allegation, to consider the employee's employment record, to explore whether any similar allegations been made previously about the employee and whether the complainant has made any similar and / or vexatious allegations previously.
- Consider whether the continued presence of the employee in the workplace may impede the investigation.
- Consider whether the nature of the allegation could involve potential risks to clients or other employees (including safe-guarding considerations).
- Consider whether it is in the best interests of the employee that they do not attend the workplace.
- Consider the implications of recent case law in regards to the particular circumstances in question. In doing this managers will call upon the support of HR and internal legal advice as required.

10.13 Given all of the above, it is being recommended that Cabinet consider that the procedures the Council already has in place ensure that each individual case is considered properly on its own merits and that suspensions are used in a consistent manner, as appropriate. Cabinet will not therefore be taking any further action in response to this notice of motion.

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer. There are no specific background documents.

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