

## **Cabinet Member for Housing, Planning, Economic Development and Regeneration**

### **Agenda**

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<b>Date:</b>	<b>Tuesday, 22nd April, 2014</b>
<b>Time:</b>	<b>2.30 pm</b>
<b>Venue:</b>	<b>Room F1/2 - Westfields, Middlewich Road, Sandbach CW11 1HZ</b>

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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 period of 10 minutes is allocated for members of the public to address the meeting on any matter relating to the work of the body in question. Individual members of the public may speak for up to 5 minutes but the Chairman or person presiding will decide how the period of time allocated for public speaking will be apportioned where there are a number of speakers. Members of the public are not required to give notice to use this facility. However, as a matter of courtesy, a period of 24 hours' notice is encouraged.

Members of the public wishing to ask a question at the meeting should provide at least three clear working days' notice in writing and should include the question with that notice. This will enable an informed answer to be given.

**4. Primrose Hill Nursery, Mere - Discharge of Section 52 Agreement (Pages 1 - 2)**

To consider the discharge of the Section 52 Agreement at Primrose Hill Nursery, Warrington Road, Mere.

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For requests for further information

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## CHESHIRE EAST COUNCIL

### **REPORT TO: PORTFOLIO HOLDER FOR ECONOMIC GROWTH AND PROSPERITY**

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Date of meeting:	22 April 2014
Report of:	Director of Economic Growth and Prosperity
Title:	Discharge of Section 52 Agreement at Primrose Hill Nursery, Warrington Road, Mere

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#### **1.0 Purpose of Report**

1.1 To seek the approval of the Portfolio Holder for discharge of the Section 52 Agreement which restricts occupancy of the existing dwelling to an agricultural worker and ownership of the land so that it cannot be sold off separately at Primrose Hill Nursery, Warrington Road, Mere. The applicants now wish to be released from the obligation.

#### **2.0 Decision Required**

2.1 To discharge the Section 52 Agreement which restricts the occupancy to an agricultural worker and ownership of the land so that it cannot be sold off separately at Primrose Hill Nursery, Warrington Road, Mere.

#### **3.0 Financial Implications for the Council**

3.1 Costs for staff time to vary the Agreement. However charges for the legal costs will be payable to the Council by the applicant.

#### **4.0 Legal Implications for the Council**

4.1 None. There is an agricultural occupancy restriction on permissions 7246P and 5426P.

#### **5.0 Risk Assessment**

5.1 None.

#### **6.0 Background and Report**

6.1 Permission was granted under applications 7246P and 5426P for an agricultural workers dwelling subject to conditions (including a condition restricting occupancy) and a Section 52 Agreement (also restricting occupancy and re-sale/let/sub-letting of the dwellinghouse and the land).

6.3 The applicant now wishes to be released from the Section 52 Agreement which he entered into on 25<sup>th</sup> June 1976 when planning permission was granted for the construction of the dwelling at Primrose Hill Nursery as an agricultural worker's dwelling – specifically clause 1 which restrict sale of the land and dwellinghouse separately. It is inappropriate to retain such clauses which are similar to conditions restricting occupancy of the agricultural workers dwelling.

6.4 As the clauses within the Section 52 Agreement are no longer necessary, it would be unreasonable to retain them.

6.5 It is recommended that the Borough Solicitor discharge the 1976 Section 52 Agreement by Deed of Agreement with the current landowner (the same landowner who entered into the 1976 Agreement) under Section 111 of the Local Government Act 1972.

6.6 The Borough Solicitor has advised that this decision should be considered by Portfolio Holder because the discharge of s52 Agreements (which were entered into under the Town & Country Planning Act 1971- now revoked) is not one of the functions listed for decision by Council, committee or officer under the Local Government (Functions & Responsibilities ) Regulations 2000. S13 Local Government Act 2000 provides that functions **NOT** listed in those Regulations should be taken by Executive Members and the Council's Constitution delegates Development Management decisions to the Portfolio Holder.

## **7.0 Reasons for Recommendation**

7.1 The discharge of the Section 52 Agreement would be acceptable in planning policy terms as the conditions of the permission would continue to restrict the occupancy of the dwelling to agricultural workers. On this basis it is not considered reasonable or necessary to refuse to remove the Section 52 Agreement.

For further information:

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