

## Cabinet Member for Finance Agenda

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**Date:** Monday, 8th December, 2014  
**Time:** 12.30 pm  
**Venue:** Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

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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. **Minshull New Road, Crewe - Disposal of Land** (Pages 1 - 8)

To consider the disposal of land at Minshull New Road, Crewe.

5. **Batherton Farms Estate - Lease of Land** (Pages 9 - 12)

To consider the lease of land to Stapeley Broad Lane Primary School.

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For requests for further information

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## CHESHIRE EAST COUNCIL

### Portfolio Holder

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<b>Date of Meeting:</b>	8 <sup>th</sup> December 2014
<b>Report of:</b>	Director of Economic Growth and Prosperity
<b>Subject/Title:</b>	Disposal of land and leased out Guides/Scout building at Minshull New Road, Crewe
<b>Portfolio Holder:</b>	Councillor Peter Raynes

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### 1.0 Report Summary

#### 1.1 This report is intended to:

**1.1.1** Seek approval to the sale of the freehold title extending to approx. 3.20ha (7.88 acres) for the land and buildings edged red on the attached plan known as:

- Land to the west of Minshull New Road, Crewe
- Girl Guides Headquarters site, Pym's Lane, Crewe

to adjacent land owner Bentley Motors Ltd, upon terms outlined in this report.

**1.1.2** Seek delegated authority to finalise the details of the proposed sales and to complete the public open space notices procedure and sign off the final decision to complete that process.

### 2.0 Recommendation

#### 2.1 It is recommended to Portfolio Holder:

**2.1.1** that the freehold interest in the two sites listed above in 1.1.1. be sold to Bentley Motors Ltd upon the terms outlined within this report

**2.1.2** that the Director for Economic Growth and Prosperity and the Head of Legal Services declare the land surplus (June 14) to requirements and be given delegated authority to finalise the details of the sale in accordance with the terms and conditions outlined in this report.

### **3.0 Reasons for Recommendations**

- 3.1 The proposed sale will generate a significant capital receipt as recommended by external agents as market value and is consistent with the Council's policies on asset rationalisation and disposal to reduce on going revenue costs and carbon tax liability.
- 3.2 The disposal will enable Bentley Motors Ltd to affect their continuous expansion plans within Crewe and support their sustainability within Crewe as a major employer and investor in the local economy.

### **4.0 Wards Affected**

- 4.1 Crewe St Barnabas.

### **5.0 Local Ward Members**

- 5.1 Cllr Roy Cartlidge.

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

- 6.1 The proposal in this report relates directly to two key outcomes identified in the Council's Three Year Plan:

#### **6.1.1 Outcome 2: Cheshire East has a strong and resilient economy.**

'Cheshire East is known as a good place to do business – we attract inward investment, there is access to a high quality workforce and our businesses and visitor economy grow to create prosperity for all.'

#### **6.1.2 Outcome 6: Cheshire East is a good place to live and work.**

'Across rural and urban communities, there is decent housing, clean and safe neighbourhoods, vibrant town centres, good access to services and employment opportunities which provide a sufficient income for everyone.'

- 6.2 The proposal aligns strongly to the Council's Economic Development Strategy and its more recently created Vision and Strategy for Economic Growth: East Cheshire Engine of the North, which articulates the rationale and plans for increasing productivity and creating new jobs. This is based on the strong competitive advantage and track record that the borough has in terms of its skilled workforce, existing business base, entrepreneurial spirit,

quality of life and its national, regional and local infrastructure and connectivity.

## **7.0 Financial Implications**

- 7.1** The Council will receive a capital receipt of £590,000 from the proposed sale to Bentley Motors Ltd in accordance with the Council's obligations under Section 123 of the Local Government Act 1972.
- 7.2** In accordance with the Council policy on capital receipts, the £590,000 will be pooled centrally and used in the most beneficial way to finance future capital expenditure.

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

- 8.1** Section 123 of the Local Government Act 1972 allows a Local Authority to dispose of an interest in land on such terms as it considers appropriate subject to its obtaining the best consideration reasonably obtainable for the land interest.
- 8.2** The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers. However, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles
- 8.3** Notwithstanding the above powers the Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people.
- 8.4** All disposals must comply with the European Commission's State aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State aid rules, failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the occupier receives less than approximately £155,000 (200,000 Euros) in state aid over a 3 year period then the De Minimis principle will apply (small amounts of aid are unlikely to distort competition). This sale is at market value and therefore no subsidy is being provided within this transaction.
- 8.5** The sites have not been offered for sale on the open market and, therefore, in order to satisfy itself that the requirement to obtain

best consideration will be satisfied, external professional valuation advice has been obtained.

- 8.6 Notwithstanding the above comment, and in addition to receiving a capital receipt, the sale is in line with the Council's policies and aspirations for the town, and affords an opportunity to contribute in a significant way to the growth of the area and job creation which is difficult to measure in monetary terms.
- 8.7 If the Council is minded to deal only with Bentley Motors Ltd it needs to have rationalised why the disposal brings benefits that outweigh undertaking a market process.

## **9.0 Risk Management**

- 9.1 The sites have not been offered for sale on the open market. On the face of it there remains a possible opportunity for a challenge to the Council's decision to sell one or more of the sites to Bentley Motors Ltd. Hence the detail above in this report. In order to minimise the risks associated with the sale, and in addition to what has been said above, external professional valuation advice has been obtained which is intended to provide comfort in relation to the duty under Section 123 Local Government Act 1972 and the general obligation to comply with fiduciary duties in particular.

## **10.0 Background and Options**

- 10.1 The land and buildings as edged red on the plan attached consist of part public open space, part unallocated housing designation and a leased out area to the Girl Guides Association. The lease to the Guides makes provision for their building to be relocated within a short distance away and Bentley Motors Ltd have confirmed that they will make the necessary re-provision for the Guides, as per the terms of the lease, which would transfer to Bentley Motors Ltd upon completion of sale of the land, should they need to redevelop that area of the site.
- 10.2 The public open space on part of the land means that the Council will have to serve public open space notices for that part to confirm its intention to dispose of the areas of public open space. This will allow the local community to comment on the disposal of that part and the Council will have to adhere to the legal process of public notices and consideration of responses. The decision to dispose as requested herein is subject to the satisfactory completion of this legal process and that there are no circumstances as a result of this process which will prevent the completion of the disposal. There must be no suggestion of pre-determination and all and any objections will fall to be considered in the proper way. This will be a transparent process.

- 10.3 There are a number of private residences abutting the boundary of the site and which have rear pedestrian access gates onto the site. There is also an unmade single dirt track used heavily by local residents as a cut through and for rear access to their properties and for off road parking. This local use could generate a number of objections to the disposal via the public open space notice and such responses would have to be dealt with appropriately. Bentley Motors Ltd have been made aware of the full title and known issues with the site and are proposing to buy the site 'as seen' subject to all known and disclosed issues and title reports. Bentley Motors Ltd are aware that the sale is subject to the objections, if any received, being dealt with appropriately as part of due process and that such objections may affect the sale proceeding.
- 10.4 Full consultation with the Guides will be undertaken in conjunction with this disposal and all endeavours to protect their position and sustainability in accordance with the Council's obligations under the terms of their lease will be made. Bentley have offered to relocate the Guides at its own expense as part of the acquisition process.

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

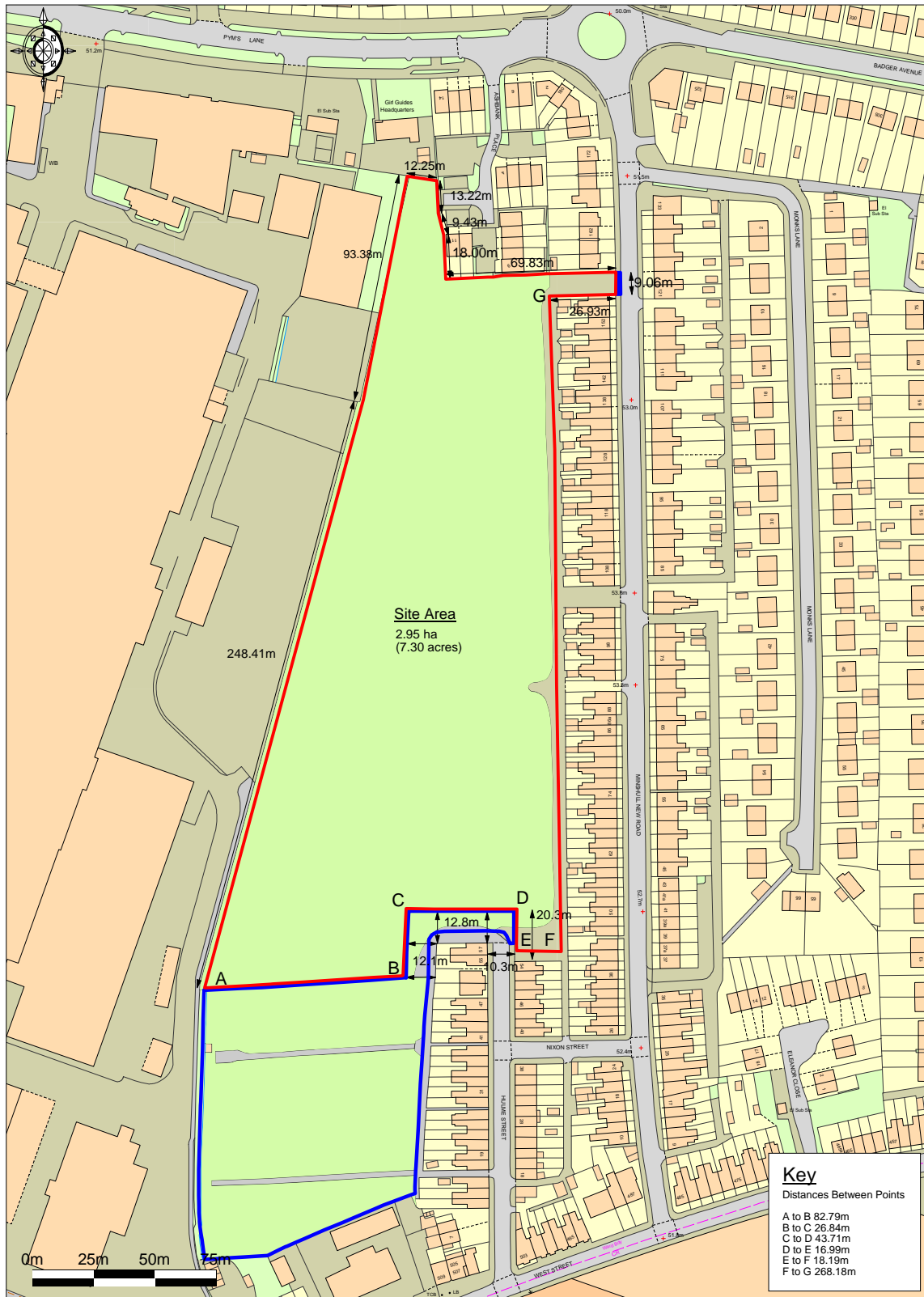
The background papers relating to this report can be inspected by contacting the report writer:

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## Plan B Land at Minshull New Road, Crewe Transfer Plan with Retained Land



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# CHESHIRE EAST COUNCIL

## Portfolio Holder for Finance

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<b>Date of Meeting:</b>	<b>8th December 2014</b>
<b>Report of :</b>	<b>County Land Agent</b>
<b>Subject/Title:</b>	<b>Batherton Farms Estate – Lease Of Land To Stapeley Broad Lane C of E Primary School</b>
<b>Portfolio Holder:</b>	<b>Councillor P Raynes</b>

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### 1.0 Report Summary

- 1.1 The report considers the terms for the use of 1.92 acres of land shown shaded red on the attached Plan A by Stapeley Broad Lane Primary School (shaded blue) by long lease.

### 2.0 Recommendations

- 2.1 Stapeley Broad Lane C of E Primary School be granted a long lease on the terms mirroring the length of term for the existing lease for the school site and restricting the use of the land to car park and additional play area (subject to planning consent) for a lease premium of £25,000 and subject to an annual peppercorn rent.

### 3.0 Reasons for Recommendations

- 3.1 The proposed terms represent the best achievable in order to assist the local school in bringing forward plans to create a car park, designed to improve access and parking for both visitors and pupils to the school.

### 4.0 Wards Affected

- 4.1 Nantwich South & Stapeley

### 5.0 Local Ward Members

- 5.1 Councillor P Groves  
Councillor A Martin

### 6.0 Policy Implications

- 6.1 None

### 7.0 Implications for Rural Communities

- 7.1 The school serves and is located in a rural area.

## **8.0 Financial Implications**

- 8.1 The proposal seeks approval for the grant of a long lease for a premium (£25,000). The unrestricted value is approximately £34,000 and hence the proposed premium represents an undervalue of approximately £9,000.
- 8.2 The farms estate revenue budget will sustain a loss of approx £228 per annum.

## **9.0 Legal Implications**

- 9.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers, however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.
- 9.2 The Council has the power to grant a lease of the land pursuant to s123 of The Local Government Act 1972 subject to any disposal for 7 years or more being at the best consideration that can reasonably be obtained.
- 9.3 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, as in this case.
- 9.4 The Council has a fiduciary duty at all times to the taxpayers and must fulfil this duty in a way which is accountable to local people.
- 9.5 All disposals must comply with the European Commission's State aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State aid rules, failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the occupier receives less than approximately £155,000 (200,000 Euros) in state aid over a 3 year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).

## **10.0 Risk Management**

- 10.1 The 125 year lease will contain a covenant which restricts the use of the land to car parking and additional play space limited to and ancillary to the use of Stapeley Broad Lane School.

## **11.0 Background and Options**

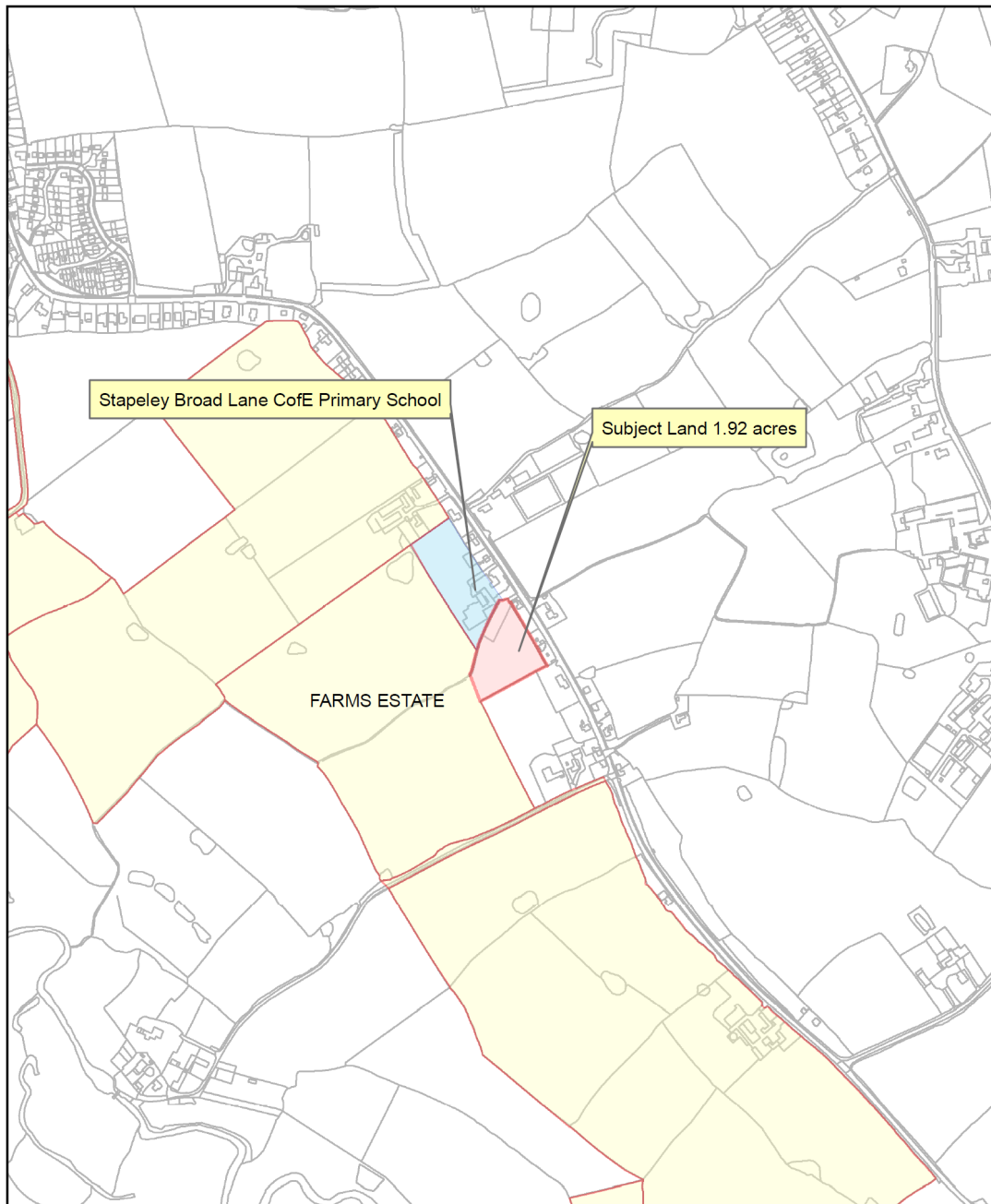
- 11.1 In 2010 the Cabinet member for procurement, assets and shared services authorised that land forming part of the Batherton Farms Estate, Holding 8, comprising an area up to 1.92 acres or thereabouts be declared surplus to the requirements of the Council, only however to facilitate a sale for the purposes of Stapeley Broad Lane C of E Primary school. As an academy the school has a 125 year lease of the property from the Council.
- 11.2 The land has continued to be farmed within an agricultural tenancy.

- 11.3 A proposal for the creation of an off road car park was developed in conjunction with the Diocese by the school in response to concerns for the safety of staff, pupils and visitors particularly at drop off and picking up time on the roadside when the road becomes severely congested
- 11.4 The school have subsequently explored design options, obtained planning consent and with the assistance of the Diocese (sale of former school house), identified funding for the proposal.
- 11.5 The school has provided details identifying a shortfall in funding barring the outright acquisition of the property at full value and accordingly terms for a lease have been considered and offered £25,000 in the context of a valuation of the land without restrictions as to use, in the sum of £34,000.
- 11.6 The proposal is considered to meet the requirements of the general disposal consent in the promotion or improvement of social well-being and accordingly the recommendation therefore seeks approval for the proposal to grant a lease of the subject land, mirroring the length of term for the existing lease for the site of the school restricting the use of the land to car park and additional play area (subject to planning consent) for a lease premium of £25,000. Consideration being given for the social and welfare implications of safety of children and for the use by children for recreation being a stated purpose.

**12.0 Access to Information**

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

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