

Cabinet Member for Regeneration

Agenda

Date: Friday, 2nd September, 2016
Time: 9.30 am
Venue: Management Meeting Room, Westfields, Middlewich Road,
Sandbach CW11 1HZ

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 relevant 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. **Lease of Land at the Carrs, Wilmslow** (Pages 1 - 8)

To consider the lease of land to Wilmslow Town Council.

5. **Weston Community Centre, Macclesfield - Transfer** (Pages 9 - 20)

To consider the transfer of the Community Centre to Macclesfield Town Council.

For requests for further information

Contact: Cherry Foreman

Tel: 01270 686463

E-Mail: cherry.foreman@cheshireeast.gov.uk with any apologies

CHESHIRE EAST COUNCIL**CABINET MEMBER FOR REGENERATION - COUNCILLOR DON STOCKTON**

Report of: Interim Executive Director of Place

Subject/Title: Lease of land being part of the car park located at The Carrs Country Park, Wilmslow

Date of Meeting: 2nd September 2016

Portfolio Holder: Regeneration

1.0 Report Summary

- 1.1 The purpose of this report is to consider a request from Wilmslow Town Council to lease for a term of 30 years at an undervalue (£1 premium with a peppercorn rent) a parcel of land located within the car park at The Carrs Country Park, Wilmslow, Cheshire SK9 4AA (shown edged red on the attached plan) as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process. This will enable the delivery of a public convenience and kiosk facility which will improve residents access to The Carrs Country Park.

2.0 Decision Requested

- 2.1 Subject to obtaining the necessary approval for the removal of the three car parking spaces, to lease the area of land shown on the attached plan being part of the car park at The Carrs Country Park, Wilmslow, Cheshire SK9 4AA to Wilmslow Town Council in line with the terms stated in 3.2 and other terms to be agreed by the Assets Manager.
- 2.2 The 30 year lease will be in line with the decision made by cabinet dated 12th July 2016 and on standard terms that was decided by Cabinet on the 5th September 2011 where the use will be protected and the Town Council will be responsible for the service and asset in the future.

3.0 Reasons for Recommendations

- 3.1 The subject land will be used to situate a public convenience and kiosk. This use will enhance the use of the park and therefore mitigating the loss of 3 parking spaces.
- 3.2 On 12th July 2016 and consistent with the Council's approach to asset transfer, it was decided by the Cabinet that a number of properties should be considered for transfer to the Town or Parish Council for the area in which the properties are located as a first phase of the Local Service. This property has been identified as a suitable asset to be transferred to the Town Council as it will assist in the delivery of services to residents.
- 3.3 In the cabinet paper it was reported to Cabinet that every lease would be on the following terms namely that:

- The term of lease will be 30 years,
- The lease would protect community use of the asset.
- The lease would take place for a nominal value (£1) and the Town Council will be wholly responsible for the service and the asset save insofar as the Council has residual legal responsibilities under contracts or legislative provisions.

And Cabinet resolved that delegated authority be given to the Portfolio Holder for Regeneration to approve the terms, in consultation with the Portfolio Holder for the relevant service managing or responsible for the asset in question and the Executive Director – Place and authorise the legal completion of those asset transfers in accordance with the Council's Constitution

- 3.4 Cheshire East Council is not statutorily required to transfer this piece of land to the Town Council. As a result the transfer also falls in line with the Cabinet paper dated 12th July 2016 which sets out the framework for disposal of assets by the Council.
- 3.5 The service department have confirmed that they are content to accommodate the request of the Town Council to lease the land for the required purpose.

4.0 Wards Affected

- 4.1 Wilmslow Lacey Green

5.0 Local Ward Members

- 5.1 Cllr Don Stockton

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 The lease of land for a premium of a £1 at a peppercorn rent is in line with the Council's policy of transfer and devolution of assets to Town and Parish Councils.

7.0 Financial Implications

- 7.1 The existing site has an existing use value which is between £10,000 to £15,000 based on the income received and therefore the Council proposes to forego the capital receipt in this instance to support the erection of this public convenience/ kiosk facility. Should the existing use change then the value of the site will correspondingly also change. As the land is within a car park it is not likely that it would be attractive in

the open market. As it is proposed to create sanitation the likely cost of investment exceeds the value of the asset. As a result if the land was removed from the car parking order and declared surplus, it would minimal value given its location.

- 7.2 The proposal would lead to the loss of three car park spaces and the potential loss of income from them. Based on the income levels in 2015-16, the maximum loss this would be is in the region of £500 p.a. It is expected this would be offset by an increase in people parking to use the new facilities and parking in the remaining car parking spaces in the car park

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 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.
- 8.2 The Council has the power to dispose of the land pursuant to s123 of The Local Government Act 1972 subject to it being at the best consideration that can reasonably be obtained. As the land is deemed to be public open space, then it will be necessary to advertise the proposed disposal of the land under the provisions of the Local Government Act 1972. Any objections and/or representations received as a result of the advertising process will be considered by the Portfolio Holder prior to any final decision being made in respect of the proposed disposal of the land.
- 8.3 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, and subject to those powers being exercised in line with public law principles.
- 8.4 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.
- 8.5 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).

9.0 Risk Management

- 9.1 There are no risk management implications.

10.0 Background Information

- 10.1 The land is owned freehold by Cheshire East Borough Council, falls within the area known as The Carrs Country Park and will occupy three car parking bays.
- 10.2 The Council has received a request is to enable Wilmslow Town Council to erect a modular building on the land at The Carrs Car Park, Wilmslow for the provision of a toilet facility and refreshment kiosk for the benefit of the Country Park and play area.
- 10.3 The extent of the land required by Wilmslow Town Council is shown outlined in red on the attached plan for identification purposes. The Client Service is Parking Services, and the Service supports the proposal at this location.
- 10.4 Wilmslow has 4.73ha of children's play space, representing 0.21ha per 1,000 of resident population, leaving a shortfall of 0.39ha per 1,000 - a shortage of 8.8ha. The Carrs Car Park is in a central location and serves the whole of Wilmslow. This Carrs Country Park attracts visitors from across Wilmslow and its hinterland and the Town Council have evidence to show that this additional facility will be well used. The site sits on the Bollin Valley Way so the new toilet facility will also be appreciated by walkers on this recreational route.
- 10.5 The site is not surplus to requirements but the proposal offers an enhancement to the facility for the benefit of users. The Car Park is subject to a car parking order and therefore the necessary approval will be required in order for three car parking spaces to be removed from the order.
- 10.6 The Cabinet Member for Regeneration and Assets with the Cabinet Member for Communities provided authority dated 11th August 2015 for the Council to transfer a parcel of the land to Wilmslow Town Council to enable to erect a modular building on the land adjacent to The Carrs Car Park, Wilmslow. The transfer was subject to Wilmslow Town Council obtaining planning permission for the erection of this modular building. However, following pre-application planning advice, it was deemed that the proposed location would not be suitable and therefore Wilmslow Town Council would not be granted planning permission.
- 10.7 Following this, Wilmslow Town Council has explored further options as to where the modular building can be located. The land at the Carrs Car Park, Wilmslow has been identified as the preferred option. Wilmslow Town Council has discussed this location with the Cheshire East

Councils Planning Authority and the proposed location has received positive feedback.

11.0 Access to Information

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

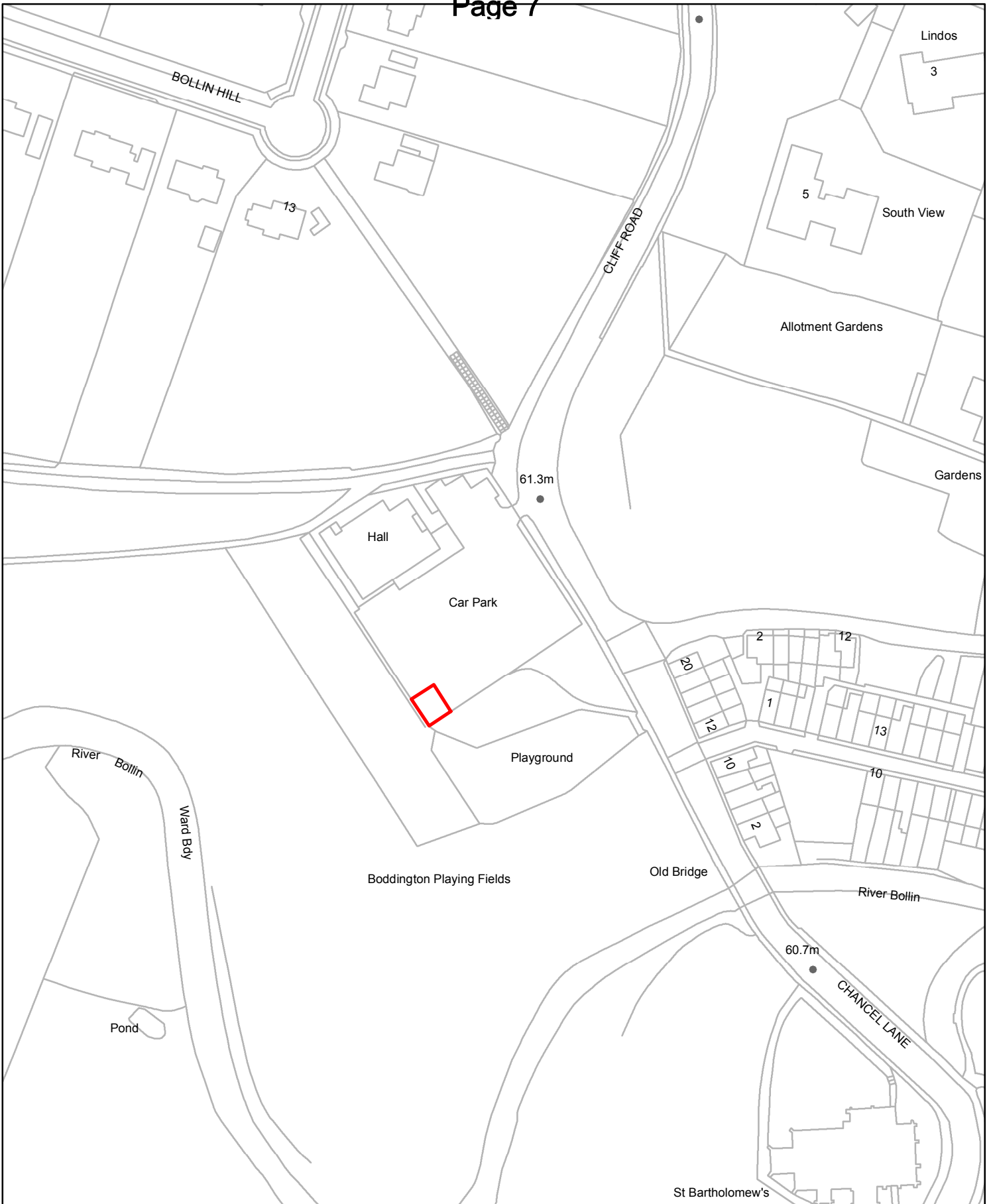
Name: Lee Beckett

Designation: Surveyor

Tel No: 01270 686122

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CHESHIRE EAST COUNCIL**CABINET MEMBER FOR REGENERATION COUNCILLOR DON STOCKTON**

Report of: Interim Executive Director of Place

Subject/Title: Weston Community Centre, Macclesfield

Date of Meeting: 2nd September 2016

Portfolio Holder: Regeneration

1.0 Report Summary

- 1.1 An approval is required to transfer Weston Community Centre as shown edged red on the attached plan as part of the Local Service Delivery - Transfer and Devolutions to Town and Parish Councils process. This approval is by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008.

2.0 Decision Requested

- 2.1 To dispose by way of a freehold transfer Weston Community Centre to Macclesfield Town Council for a nominal value, on the terms stated in 3.4 and other terms to be agreed by the Assets Manager in consultation with the Portfolio Holder and Director of Legal Services.
- 2.2 To authorise the Director of Legal Services to enter into and sign all necessary documents to give effect to those agreements reached.

3.0 Reasons for Recommendations

- 3.1 Macclesfield Town Council was created in April 2015 as a result of Reorganisation of Community Governance (Macclesfield) Order 2015 (see attached).
- 3.2 The Cheshire East Council Reorganisation of Community Governance (Macclesfield) Order 2015 confirmed that Macclesfield Town Council was to be formed. Schedule 2, Article 11 of this order identified a number of properties including seven Allotments, Weston Community Centre and two Public Conveniences. The Allotments have been considered within a separate report with the public conveniences to be considered in a report to follow.
- 3.3 This process for these asset transfers is a separate process by virtue of The Local Government (Parishes and Parish Councils) (England) Regulations 2008 and also falls in line with the Council's general approach to asset transfer and the Cabinet paper dated 12th July 2016 which sets out the framework for disposal of assets by the Council.

- 3.4 Cheshire East Council (CEC) is committed to delivering services tailored to its individual communities. Weston Community Centre is a community building which caters for the different aspects of the community within Macclesfield.
- 3.5 Macclesfield Town Council will ensure that this asset is sustainable and will work with the local community to provide the right services, in the right places, at the right times.
- 3.6 Macclesfield Town Council would take on full accountability for all aspect of the transfer including all running costs and existing bookings.

4.0 Wards Affected

- 4.1 Macclesfield West and Ivy

5.0 Local Ward Members

- 5.1 Cllr Alift Harewod & Cllr Nicholas Mannion

Local Ward members have been consulted.

6.0 Policy Implications including - Climate change - Health

- 6.1 The transfer is in line with the Councils policy of Local Service Delivery - Transfer and Devolutions to Town and Parish Councils.

7.0 Financial Implications

- 7.1 The impact of the transfer to Macclesfield Town Council would only have a marginal financial impact on CEC budget in 16-17 as there are currently minimal operational costs for this asset.

8.0 Legal Implications (Authorised by the Director of Legal Services)

- 8.1 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.
- 8.2 The Council has the power to dispose of land pursuant to S123 of the Local Government Act 1972 subject to it being at the best consideration that can reasonably be obtained.
- 8.3 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2 million or less, as in this case, and subject to those powers being exercised in line with public law principles.

- 8.4 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.
- 8.5 The Council also has to be mindful of The European Commission's State Aid rules which set out that when disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land which may distort the market. In such cases both Councils must ensure that the nature and the amount of the subsidy complies with State Aid rules either by coming under one of the General Block Exemptions or under the De Minimis rule which permits aid up to approximately £155,000 (€200,000) over a 3 year period.

9.0 Employment implications

Cheshire East Council employs one part time member of staff in Weston Community Centre as a general assistant. Confirmation is required from Macclesfield Town Council but it is expected that this role will transfer to Macclesfield Town Council under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (and as amended in 2014) Information and informal consultation has taken place. Further formal consultation will take place if this transfer is confirmed. In the event that the role does not transfer, the individual would be at risk of redundancy and there would be a financial and reputational risk.

10.0 Risk Management

- 10.1 Cheshire East Council is not proposing to carry out any further improvements to Weston Community Centre as this building is deemed not to be a priority due to budgetary implications. There is a risk that Macclesfield Town Council will be unwilling to enter into the proposed freehold transfer unless CEC deal with these issues first.
- 10.2 There is a risk that an agreement between the Council and Macclesfield Town Council with regard to the transfer of the employee is not reached following the formal consultation.

11.0 Background Information

- 11.1 Macclesfield Town Council was created in April 2015 as a result of the Reorganisation of Community Governance (Macclesfield) Order 2015.
- 11.2 Cheshire East Council is committed to delivering services tailored to its individual communities and has a borough wide ambition to create a network that service the local needs of residents by the people who understand their communities best.

- 11.3 In some cases this means moving more to local ownership (which is inline with the original transfer policy) so that the asset can be better utilised and managed for the good of the community.

12.0 Access to Information

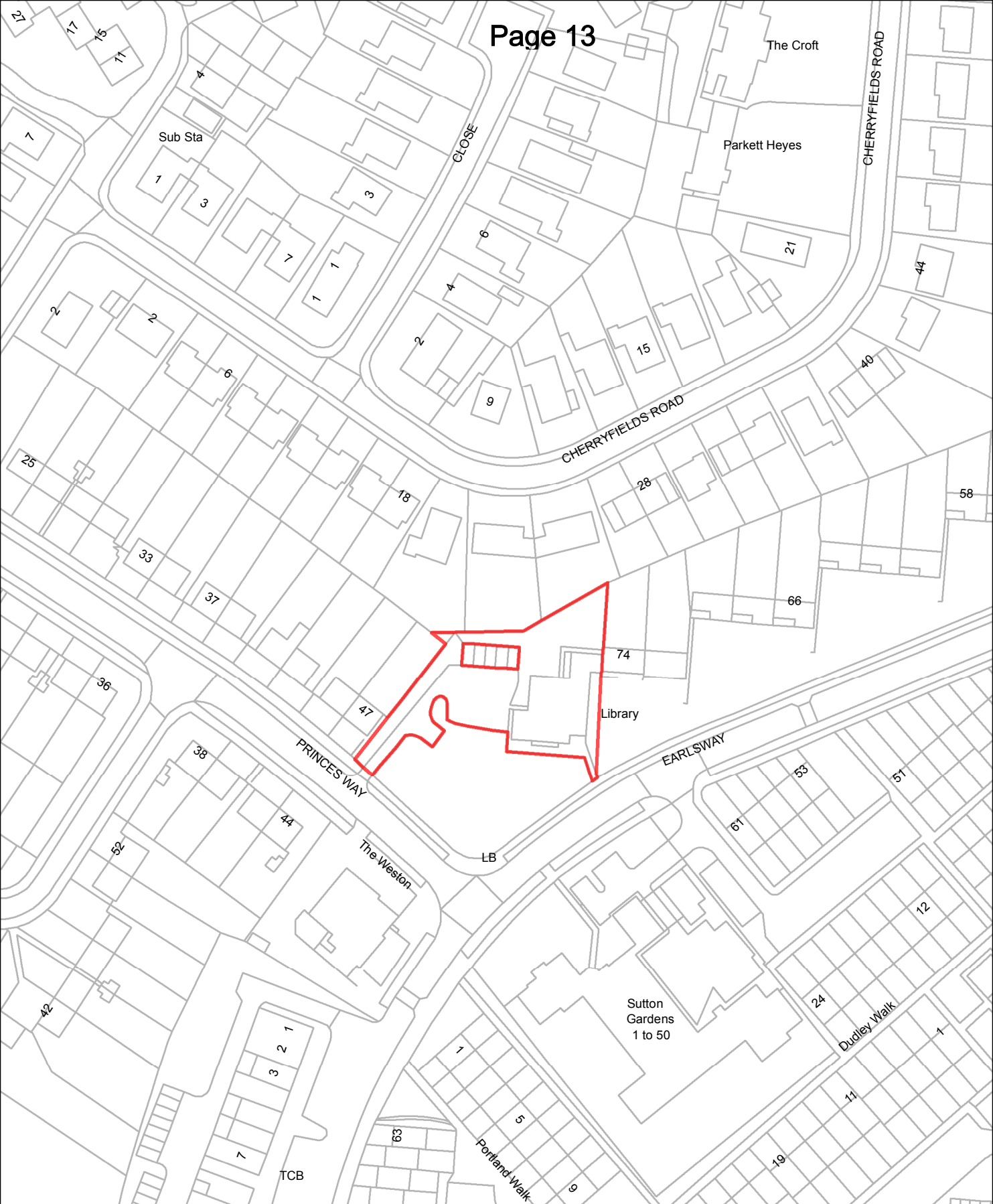
The background papers relating to this report can be inspected by contacting the report writer:

Name: Lee Beckett

Designation: Surveyor

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WESTON COMMUNITY CENTRE

Map Ref: 37286
Date: 9th March 2016

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Ordnance Survey 100049045 100049046



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at A4

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LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

The Cheshire East Borough Council (Reorganisation of Community Governance) (Macclesfield) Order 2015

Made 13th March 2015

(day, month, year)

Coming into force in accordance with article 1(2)

Cheshire East Borough Council ("the Council"), in accordance with section 83 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act"), has undertaken a community governance review and made recommendations dated 11 December 2014.

The Council has decided to give effect to those recommendations and, in accordance with section 93 of the 2007 Act, has consulted with local government electors and other interested persons and has had regard to the need to secure that community governance reflects the identities and interests of the community and is effective and convenient:

The Council, in accordance with section 100 of the 2007 Act, has had regard to guidance issued under that section.

The Council makes the following Order in exercise of the powers conferred by sections 86, 98(3), 98(4), 98(6) and 240(10) of the 2007 Act and of all other powers enabling it in that behalf.

1. Citation and commencement

- (1) This Order may be cited as the Cheshire East Borough Council (Reorganisation of Community Governance) (Macclesfield) Order 2015.
- (2) Subject to paragraphs (3) and (4) below, this Order comes into force on the 1st April 2015
- (3) Article 8 and Schedule 1 shall come into force on 7 May 2015
- (4) For the purposes of:
 - (a) this Article
 - (b) Article 10, and
 - (c) Article 12 – and all proceedings preliminary or relating to the election of parish councillors for the parish of Macclesfield to be held on 7 May 2015,this Order shall come into force on the day after that on which it is made.

2. Interpretation

In this Order—

"borough" means the borough of Cheshire East

"existing" means existing on the date this Order is made

"map" means the map marked "Map referred to in the Cheshire East Borough Council (Reorganisation of Community Governance) (Macclesfield) Order 2015" and deposited in accordance with section 96(4) of the 2007 Act: and any reference to a numbered sheet is a reference to the sheet of the map which bears that number

"new parish" means the parish constituted by article 4

"ordinary day of election of councillors" has the meaning given by section 37 of the Representation of the People Act 1983 and

"electoral registration officer" means an officer appointed for the purpose of, and in accordance with, section 8 of the Representation of the People Act 1983.

3. Effect of Order

This Order has effect subject to any agreement under section 99 (agreements about incidental matters) of the Local Government and Public Involvement in Health Act 2007 relevant to any provision of this Order.

4. Constitution of new parish

- (1) With effect from 1 April 2015, a new parish, comprising the area outlined in yellow and shaded green on the map, shall be constituted within the borough.
- (2) The name of the new parish shall be "Macclesfield".

5. Parish Council

- (1) There shall be a parish council for the parish of Macclesfield.
- (2) The name of that council shall be "Macclesfield Parish Council".

6. Elections for the parish of Macclesfield

- (1) Elections of all parish councillors for the parish of Macclesfield shall be held on the ordinary day of election of councillors in 2015.
- (2) The term of office of every parish councillor elected on 7 May 2015 for the parish of Macclesfield shall be four years and thereafter shall coincide with the ordinary day of election of parish councillors every four years in accordance with s.16 (3) of the Local Government Act 1972.

7. Number of parish councillors

The number of councillors to be elected for the new parish Council shall be 12.

8. Wards of the new parish of Macclesfield and numbers of parish councillors

- (1) The Parish of Macclesfield shall be divided into seven wards which shall be named as set out in column (1) of Schedule 1.
- (2) Each parish ward shall comprise the area of the borough ward in Macclesfield specified in respect of each ward in column (2) of Schedule 1 and designated on the map by reference to the name of the ward and demarcated by green lines.
- (3) The number of councillors to be elected for each ward shall be the number specified in column (3) of Schedule 1.

9. Annual meeting of parish council

The annual meeting of the new parish council in 2015 shall be convened by the Chief Executive of Cheshire East Borough Council. The meeting for the new parish council shall take place no later than 14 days after the day on which the councillors elected to the new parish council take office.

10. Calculation of Budget Requirement

For the purposes of regulation 3 of the Local Government Finance (New Parishes) (England) Regulations 2008, there is specified in relation to the parish of Macclesfield the sum of £575,640.

11. Transfer of property, rights and liabilities

The land, property, rights and liabilities described in Schedule 2 shall transfer from the borough to the new parish council on the date specified in column (2) of that Schedule.

12. Electoral register

The Electoral Registration Officer for the borough shall make such rearrangement of, or adaptation of, the register of local government electors as may be necessary for the purposes of, and in consequence of, this Order.

13. Order date

1st April 2015 is the order date for the purposes of the Local Government (Parishes and Parish Councils) (England) Regulations 2008.

THE COMMON SEAL OF
CHESHIRE EAST BOROUGH COUNCIL
Was hereunto affixed in the presence of



AUTHORISED SIGNATORY



6038

SCHEDULE 1 (ARTICLE 8)

WARDS OF THE PARISH OF MACCLESFIELD

NAMES AND AREAS OF WARDS AND NUMBERS OF COUNCILLORS

Column 1 Name of parish Ward	Column 2 Area of Ward	Column 3 Number of parish councillors
Broken Cross and Upton	The whole of the borough ward of Broken Cross and Upton as shown on the map	2
Macclesfield Central	The whole of the borough ward of Macclesfield Central as shown on the map	2
Macclesfield East	The whole of the borough ward of Macclesfield East as shown on the map	1
Macclesfield Hurdsfield	The whole of the borough ward of Macclesfield Hurdsfield, as shown on the map	1
Macclesfield South	The whole of the borough ward of Macclesfield South (except for Polling District 4BFR), as shown on the map	2
Macclesfield Tytherington	The whole of the borough ward of Macclesfield Tytherington as shown on the map	2
Macclesfield West and Ivy	The whole of the borough ward of Macclesfield West and Ivy as shown on the map	2

SCHEDULE 2 (ARTICLE 11)

LAND AND PROPERTY TO BE TRANSFERRED

Column 1	Column 2
Land and property to be transferred	Date
Allotments	1 April 2015
Weston Community Centre	1 October 2015
Public Conveniences	1 October 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order gives effect to a decision made by Cheshire East Borough Council for the creation of a new parish and a parish council for Macclesfield within the borough of Cheshire East.

The new parish will be created with effect from 1 April 2015. The electoral arrangements for the parish council apply in respect of parish elections to be held on 7 May 2015.

Article 6 provides for the first parish elections in the parish of Macclesfield in 2015, and every four years thereafter according to the established system of parish elections.

Article 7 specifies the number of parish councillors for the new parish of Macclesfield.

Article 8 and Schedule 1 establish the names and areas of the wards of the new parish of Macclesfield (as indicated on the map) and the numbers of councillors for each ward.

Article 10 specifies the amount of the initial precept for the new parish to be applied in the 2015 – 16 financial year.

Article 12 obliges the Electoral Registration Officer to make any necessary amendments to the electoral register to reflect the new electoral arrangements.

The map defined in Article 2 shows the area comprising the new parish of Macclesfield and the wards of the new parish. It is available for inspection, at all reasonable times, at the offices of Cheshire East Borough Council.

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