

CHESHIRE EAST COUNCIL

CABINET MEMBER FOR PROSPERITY

Date of Meeting: 1 August 2011
Report of: Head of Safer Stronger Communities
Assets Manager
Subject/Title: Appropriation of Land at the Council Offices Site Remenham,
Wilmslow for Car Parking Purposes.

1.0 Report Summary

- 1.1 The purpose of the report is to seek authority for publication of a notice of intention to appropriate land at the Council Offices site at, Remenham Wilmslow for parking purposes and, subject to the receipt of objections in response to the notice, to appropriate the land accordingly.

2.0 Recommendations

- 2.1 The Cabinet Member for Prosperity is requested:
- 2.1.1 to authorise the Borough Solicitor, or officer acting on her behalf, to publish a notice of intention to appropriate land known at the Council Offices site at, Remenham, Wilmslow, shown edged in red on the plan at Appendix A, for the purposes of section 32 of the Road Traffic Regulation Act 1984 ('the 1984 Act'), i.e. parking purposes; and
- 2.1.2 in the event that no objections to the proposed appropriation are received within the consultation period (or if received they are withdrawn), on the day immediately following the last date for receipt of objections specified in the public notice, to appropriate the land at the Council Offices site, Remenham, Wilmslow, shown edged in red on the plan at Appendix A for the purposes of section 32 of the 1984 Act (i.e. parking purposes); and
- 2.1.3 to note that, if objections to the proposed appropriation are received, that the objections will be referred to a subsequent meeting of the Cabinet Member for consideration.

3.0 Reasons for Recommendations

- 3.1 As set out within the legal implications at paragraph 8 below, it is necessary to formally appropriate land for parking purposes in order to make an off-street parking places order under the provisions of the Road Traffic Regulation Act 1984.

- 3.2 The proposal will enable the Council to control parking through civil enforcement which should help to ensure that the site is not misused, to increase available public off street parking in this part of Wilmslow, and to secure an income for the Council from this asset.

4.0 Wards Affected

- 4.1 Wilmslow West & Chorley

5.0 Local Ward Members

- 5.1 Councillor Gary Barton and Councillor Wesley Fitzgerald

6.0 Policy Implications including - Climate change - Health

- 6.1 Not applicable.

7.0 Financial Implications 2011/12 and beyond (Authorised by the Borough Treasurer)

- 7.1 The estimated costs for the statutory notices, in the region of £400, will be met from existing Parking Services' budget. The appropriation of the land at Remenham has no other financial implications; however the commissioning of the car park itself will. If this site is to be ultimately disposed of by the Council, there may be consequent costs of revoking this appropriation and of any then existing Car Park Order.
- 7.2 Should the Appropriation be agreed, the proposal for approval of an Off Street Parking Places Order, which will enable the Council to make a charge for parking, will proceed subject to objections received. Capital set up costs of this proposal are estimated at £42000 with annual operating costs of £2800. At the proposed prices and estimated occupancy of 50%, income is forecast at a maximum of £27,100 per annum. The car park would need to be operational for a minimum of 19 months to recoup the initial set up costs.
- 7.3 The introduction of charging should safeguard income on other car parks of c. £50,000.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Section 35 of the Road Traffic Regulation Act 1984 ('the 1984 Act') provides that a local authority may make an off-street parking places order in respect of any parking place provided by it under section 32 of the 1984 Act or provided under letting arrangements. Section 32(2) of the 1984 Act provides that a local authority may adapt for use a parking place any land acquired or appropriated by them for the purposes of this section.
- 8.2 Appropriation of land for any purpose is governed by Section 122 of the Local Government Act 1972 (the 1972 Act), which authorises councils to appropriate land to any purpose for which they are authorised to acquire land by agreement

and which is no longer required for the purpose for which it was held immediately prior to the appropriation.

- 8.3 It should be noted that the appropriation of land by a council by virtue of sub-section 122(1) of the 1972 Act remains subject to the rights of other persons in, over, or in respect of the land concerned. Therefore a decision to appropriate land for a particular purpose does not extinguish any third party rights over the land in question.
- 8.4 Sub-section 122(2A) of the 1972 Act provides that a council may not appropriate any land consisting of or forming a part of open space without first providing public notice for two consecutive weeks in a local newspaper and thereafter considering any objections received. Taking a wide definition of 'open space', the land in question may be viewed as open space for the purposes of section 122, and for this reason it is considered advisable to give public notice of the intention to appropriate.
- 8.5 The decision about whether land is no longer required for a particular purpose is one for the local authority acting in good faith. However if the land is open space the Council is required by Section 122(2A) to consider any objections to the Council's view on the question of whether the land is required for its present purposes and not just the issue of whether the land not required should be appropriated to a new purpose. If any objections are received (and not withdrawn), then these must be considered by the decision maker. It is acceptable to make a decision regarding the intention to appropriate in the absence of objections, but this should not be treated as foreclosing any further consideration of the matter if objections are received.

9.0 Risk Management

- 9.1 Full consideration of any objections received in response to the statutory notices will mitigate any risk of challenge.

10.0 Background and Options

- 10.1 The land shown edged red on the plan attached as Appendix A is land at the Council Offices site, Remenham Wilmslow. The whole plot of land was acquired by Cheshire County Council, dated 10th December 1948. This includes the adjoining land the Health Centre is built upon as well. There does not appear to be any restrictions on use of the land contained in this Conveyance. Whilst it is understood that this area of land has been used as a Council staff and visitor car park for a number of years, there does not appear to be any evidence within the Council's records to indicate that this area of land has ever been appropriated for parking purposes. This is why it is necessary to appropriate the land; the procedural requirements in relation to appropriation are set out within paragraph 8.0 above.
- 10.3 Land which forms a parking place must be acquired or appropriated for parking purposes in order to enable the authority to make an off-street parking places order controlling the use of the car park under section 35 of the Road Traffic

Regulation Act 1984 ('the 1984 Act'). It should be noted that any proposals in relation to the making of an off-street parking places order in relation to the site under section 35 of the 1984 Act will be subject of a separate decision and subject to statutory consultation.

- 10.4 The Cabinet Member is therefore requested to authorise notice to be provided of the intention to appropriate the land to parking purposes. If no objections are received within the period specified in the notice (or if any such objections received are withdrawn) the land would be appropriated with effect from the day after the last date for objections specified in the notice. If objections are received, the matter will be referred back to the Cabinet Member for consideration of the objections.
- 10.5 The alternative option is not to approve the publication of the statutory notices; this would mean that the benefits set out within paragraph 3.2 above could not be achieved.
- 10.6 Existing parking arrangements for those Council (and other) staff currently occupying the Council offices will need to be managed within the parameters of the proposed controls.
- 10.7 It is important to stress that the proposed appropriation will not compromise the Council's wider long term ambitions for the site, which potentially include its disposal on the open market.

11.0 Access to Information

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

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