

CHESHIRE EAST COUNCIL

REPORT TO PORTFOLIO HOLDER – REGENERATION AND ASSETS

Report of: Property Services Manager

Subject/Title: Transfer of the Former Oakley (Victoria Centre), Meredith and Newdigate Centre, Crewe to the Crewe Engineering & Design University Technical College

Date of Meeting: 30 June 2015

Portfolio Holder: Regeneration and Assets

1.0 Report Summary

1.1 The purpose of this report is to seek approval to:

- (1) Enter into a lease for a term of 125 years, of the Former Oakley (Victoria Centre), Meredith and Newdigate Centre, Crewe, as shown edged red on the attached plan to the Crewe Engineering & Design University Technical College ; and
- (2) In connection with both sites, all matters necessary to secure possession of the part of the site subject to a current lease with a third party, and
- (3) Those matters necessary to facilitate the proposed development (4) to cap fees to be recovered on the granting of the lease

2.0 Decision Requested

2.1 THAT, in respect of the Former Oakley (Victoria Centre), Meredith and Newdigate Centre, Crewe, shown edged red on the attached plan:

1. The Council be authorised to enter into an agreement for lease conditional upon those matters set out in this report and in accordance with the detailed instructions; and
2. negotiations take place with the current tenant of part of the site to relinquish their interest in the land so as to secure the vacant possession of those parts of the site comprised in the proposed new lease; and that on conclusion of those negotiations the Head of Legal Services be authorised to enter into a deed of surrender with the current tenant upon such terms as shall be recommended by the Interim Asset Manager;
3. subject to the above, that the property be leased for a term of 125 years at no premium at a peppercorn rent, which is less than best consideration, substantially in the form of the Department for Education model free school lease to the proposed new tenant the Crewe Engineering & Design University Technical College;
4. approval be given to enter into any and all Licences deemed necessary.

3.0 Reasons for Recommendations

3.1 Cheshire East Council and sponsors of the Crewe Engineering & Design University Technical College successfully bid to the Department of Education to establish a University Technical College in Crewe. The Council identified and number of potential sites and evaluated accordingly. Following the evaluation process, the Former Oakley (Victoria Centre), Meredith and Newdigate Centre was identified as the most

suitable and preferred location to establish the proposed University Technical College in Crewe.

- 3.2 The University Technical College aspiration is to develop outstanding employable young people to become the next generation of highly skilled technicians and engineers to support the industries of Cheshire East
- 3.3 The Crewe Engineering & Design University Technical College is to be located in Crewe to provide access to a engineering based technical education at Key Stage 4/5 to support companies such as Siemens, Bentley Motors Ltd and Oliver Valves who have reported a need for appropriately skilled young people to join their local workforce.
- 3.4 The proposal will also relieve the Council of the ongoing maintenance and management liability of the Former Oakley (Victoria Centre), Meredith and Newdigate Centre Premises. Both the former Meredith and Newdigate Centres have been vacant for a number of years and are in a poor state of repair. The site is a central one and, being partially vacant, has been declared surplus to operational requirements. The proposal would make full use of the whole of the site and, for these reasons, the Council have identified this site as the most suitable location that is presently available to it for the purposes of housing the proposed Crewe Engineering & Design University Technical College

4.0 Wards Affected

- 4.1 Crewe Central

5.0 Local Ward Members

- 5.1 Councillor Irene Faseyi

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 None

7.0 Financial Implications

- 7.1 The Council proposes to forego the capital receipt in this instance to support the promotion of well being as outlined herein and to create savings.
- 7.2 The site is current estimated to have a value in the region of £700,000 - £1,000,000

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 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.
- 8.3 Under the Local Government Act 1972 General Disposal Consent (England) 2003 (Circular 06/03) The Secretary of State gave general consent to disposals for less than best consideration if:
- (a) The disposing authority considers that the purpose for which the land is to be disposed of is likely to contribute to the achievement of any one or more of the following objects of the whole or any part of its area, or all or any persons resident or present in its area:
 - a. The promotion or improvement of economic well-being;
 - b. The promotion or improvement of social well-being;
 - c. The promotion or improvement of environmental well-being;
 - (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2m; and
 - (c) All other conditions and requirements of the Consent are satisfied.
- 8.4 In transferring assets the Council must behave prudently to fulfil its fiduciary duty
- 8.5 There is no requirement that local authorities undertake a tendering process within the General Disposal Consent. However, there is the general requirement for authorities to follow "normal and prudent commercial practices". Where a local authority has undertaken a valuation of the asset to understand the level of the 'undervalue' and has established a robust business case for transfer, there would be no further requirement to 'market test' a transfer proposal to meet the General Consent criteria.
- 8.6 If the Council is minded to transfer the asset to the Crewe Engineering & Design University Technical College it needs to have rationalised why the disposal brings benefits that outweigh undertaking a market process.
- 8.7 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 £145,667.91 (at 10/06/2015 rates) (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).
- 8.8 There is public open space within the land concerned; therefore 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.
- 8.9 The property has a value in the region of £700,000 - £1,000,000 and having regard to the improvement of the social and economic wellbeing factors set out in paragraph 8.2 (a) & (b) above, best value is considered achieved.

9.0 Risk Management

- 9.1 The site has not been offered for sale or transfer on the open market and, thus, the Council cannot evidence whether there is demand from other parties whether those parties be charitable, community organisations, social enterprises or private individuals. In consequence, the Council may be at risk of legal challenge from aggrieved parties in the event of it seeking to progress an off market transaction with the Crewe Engineering & Design University Technical College as opposed to marketing the opportunity to the wider community.

10.0 Background

- 10.1 Blanket approval was granted on 1st August 2011 by the then Cabinet Member for Prosperity to transfer School Sites to the relevant Academy Trusts once an Academy Order had been issued by the Secretary of State however the Crewe Engineering & Design University Technical College proposal falls outside this blanket approval.
- 10.2 Cheshire East Council and sponsors of the Crewe Engineering & Design University Technical College successfully bid to the Department of Education to establish a University Technical College in Crewe.
- 10.3 The Former Oakley (Victoria Centre), Meredith and Newdigate Centre was identified as the most suitable and preferred location to establish the proposed University Technical College in Crewe to develop outstanding employable young people to become the next generation of highly skilled technicians and engineers to support the industries of Cheshire East.
- 10.4 The Department for Education are in support and funding the proposal and have outlined a scheme of works to demolish the former Newdigate and Meredith buildings, replacing with a new build and to refurbish the Oakley Centre to provide high specification education facility. An application for planning permission to outline the proposal is to be submitted by the Department for Education following and in accordance with the completion of the proposed agreement for lease.
- 10.5 The Oakley Centre is currently leased to Everyday Sports and Recreation (ESAR) dated the 2nd May 2014 and has 14 years unexpired. The Council will be required to serve the relevant statutory notice to terminate the existing lease to enable the University Technical College to occupy the whole site by the 4th December 2015.
- 10.6 The proposed first year in take of students for the Crewe Engineering & Design University Technical College is September 2016. Therefore it is imperative that the proposed lease is completed as soon as possible to allow the delivery of the project to meet the stringent deadlines set by the Department of Education. If the deadline is not met then this could result in the University Technical College being withdrawn from Crewe & Cheshire East.
- 10.7 The proposed lease will be subject to following conditions being satisfied to the complete satisfaction of the Crewe Engineering & Design University Technical College:
- The application for and grant of an acceptable Planning Permission (without call in),
 - Vacant Possession of the site being secured by no later than 4th December 2015,

- Public Rights of Way and Highways issues over or in connection with the site
- Private rights of way over and across the site
- Section 77 consent, under the School Standards and Framework Act 1998 (if needed) in respect of the proposed change of use or disposal of any part of the site previously used as school playing fields of a maintained school within the relevant period, and
- The carrying out of a title tidying merger exercise reducing the title numbers from the existing 108 or so titles

The proposed lease will also be conditional upon and subject to the requirement to follow the statutory procedure for the disposition of public open space. Consideration of any objections received in connection with the proposal will be given proper consideration by the Council and the lease disposal is subject to determination for that process and in respect of this condition, either party may determine the agreement for lease if the outcome of any such due consideration of objections received is such that any such objections are upheld by the Council

11.0 Access to Information

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

Name: Paul Carter

Designation: Senior Surveyor

Tel No: 01270 686127

Email: paul.carter@cheshireeast.gov.uk