

## **CHESHIRE EAST COUNCIL**

### **CABINET MEMBER FOR REGENERATION AND ASSETS & CABINET MEMBER FOR COMMUNITIES**

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**Report of:** Executive Director Economic Growth and Prosperity

**Subject/Title:** Land off Maggoty Lane, Gawsworth, Macclesfield, Cheshire.

**Date of Meeting:** 14<sup>th</sup> September 2015

**Portfolio Holder:** Regeneration and Assets – Councillor Don Stockton &  
Communities Councillor Les Gilbert

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#### **1.0 Report Summary**

- 1.1 An approval is required in respect of land known as ‘Land off Maggoty Lane, Gawsworth, Macclesfield, Cheshire’ (as shown edged red on the attached plans) as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process which falls in line with the agreed policy for the transfer of assets and devolution of services to transfer the land to Gawsworth Parish Council.

#### **2.0 Decision Requested**

- 2.1 Subject to the response to the public space advertisements referred to in 8.3, to transfer the long leasehold of land known as Land off Maggoty Lane, Gawsworth, Macclesfield, Cheshire (as shown edged red on the attached plans) to Gawsworth Parish Council for a nominal value on the terms stated in 3.2 and such other terms as may be agreed by the Property Services Manager in consultation with the Head of Legal services and Monitoring Officer.

#### **3.0 Reasons for Recommendations**

- 3.1 On 5<sup>th</sup> September 2011 it was decided by the Cabinet that a number of properties (Appendix A properties) should be transferred to the Town or Parish Council for the area in which the properties are located as a first phase of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process and that certain other properties (Appendix B properties) be considered for transfer with the decisions as to whether to sell being delegated to the relevant portfolio holder(s).
- 3.2 It was reported to Cabinet that every transfer or lease would be on the following terms namely that:
- The transfer/ lease would protect community use of the asset.
  - The transfer/ 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.
  - If allowing change of use, the agreement would secure an overage

payment for the Council if there is a future planning permission which enhances the value of the asset or the Town Council sells the asset within an 15 year period with increase in value/ proceeds of sale returning to Cheshire East on a reducing sliding scale

And Cabinet resolved that delegated authority be given to identified officers to finalise standard terms for all the transfers. Standard heads of terms were subsequently approved by the relevant officers and the Portfolio Holder for Places and Strategic Capacity.

3.3 The transfer to Gawsworth Parish Council will be based upon the standard heads of terms.

3.4 This land was neither an Appendix A nor an Appendix B but has since been identified as an appropriate asset to be devolved to the Parish Council.

#### **4.0 Wards Affected**

4.1 Gawsworth

#### **5.0 Local Ward Members**

5.1 Cllr Lesley Smetham

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

6.1 The transfer is in line with the council policy of transfer and devolution of asset to Town and Parish councils for a nominal value.

#### **7.0 Financial Implications**

7.1 The impact of the transfer to Gawsworth Parish Council would have minimal financial impact on CEC budget in 15-16 as there are currently minimal operational costs.

7.2 Once the land has transferred, then all Repair, Maintenance, Utility and Rates become the responsibility of the Parish Council and that they would be directly liable.

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

8.1 The Council has no power to dispose of property by a freehold transfer unless it secures the best consideration reasonably obtainable or it has Secretary of State consent. Under the Local Government Act 1972 General Disposal Consent (England) 2003 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.

This is a transfer between public authorities and is for community benefit; and a surveyor has confirmed best value is thereby achieved to ensure compliance with this authority to dispose. The Council has obtained best value given the promotion and improvement of the economic, social and environmental well being.

8.2 State aid is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the European Union (EU). As this is a transfer to a local authority for community benefit and not economic gain State Aid is unlikely to apply.

8.3 In accordance with Section 123 (2A) of the Local Government Act 1972 the Council is legally obliged to publish notice of its intention to dispose of open space for two consecutive weeks in a newspaper circulating in the area in which the open space is situated. In this context the Council will have to advertise the proposed disposal of the land. As well as a requirement to advertise Section 123 (2A) provides that a principal council may not dispose of open space unless, before disposing of the open space consideration is given to the objections/representations made.

## **9.0 Risk Management**

9.1 The Council would secure an overage payment for the Council if there is a future planning permission which enhances the value of the asset or the Parish Council sells the asset within an 15 year period with increase in value/ proceeds of sale returning to Cheshire East on a reducing sliding scale.

## **10.0 Background Information**

10.1 In 2012 Gawsworth Parish Council acquired an area of woodland on Maggoty Lane to create an area of public open space. This has been incredibly popular and is well used and is adjacent to the land in question.

10.2 Gawsworth Parish Council have approached the Council to see if the Council will dispose of the land in question as part of the as part of the

Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process which falls in line with the agreed policy for the transfer of assets and devolution of services.

- 10.3 The purpose of this request is to enable Gawsworth Parish Council to enhance the existing open space off Maggoty Lane, Gawsworth. The ambition of the Parish Council is to utilise the additional woodland and route of the Ben Brook to allow the public to access more woodland. In addition to this, the Parish Council would also like to be able to utilise part of the land as ancillary space to the woodland.
- 10.4 The extent of the land required by Gawsworth Parish Council is shown outlined in red on the attached plan for identification purposes. The land is considered to be surplus to operational requirements.
- 10.5 It is considered that the transfer would accord with a number of Cheshire East Councils strategic outcomes:

1) Communities are Strong & Supportive

By virtue of increasing the amount of community space within Gawsworth Parish, this will increase the sense of community and therefore contribute to Cheshire East Council's aim. Gawsworth Parish Council hope to increase use of the woodland, creating it as a heart of the community and a centre for civic pride.

2) People have the life skills and education they need to thrive

Gawsworth Parish Council would look to use the woodland as an educational space; as they already allow the village primary school to use part of our woodland for their activities and with more space Gawsworth Parish Council would aim to introduce educational boards and promote conservation

3) Cheshire East is a green and sustainable place

Gawsworth Parish Council will be massively enhancing both woodlands to enhance the character of Maggoty Lane contributing to a green and sustainable place.

4) People live well and for longer

As highlighted in Cheshire East Council's three year plan; this transfer will increase the amount of recreational facility available to residents of Gawsworth both for recreation and nature education.

5) Cheshire East is a good place to live and work

Gawsworth Parish Council will tidy and maintain a currently poor area making the area more accessible for residents of Gawsworth and its surrounding areas..

## **11.0 Access to Information**

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

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