

CHESHIRE EAST COUNCIL

REPORT TO PORTFOLIO HOLDER – REGENERATION & ASSETS

Report of: Executive Director of Economic Growth and Prosperity

Subject/Title: Crewe Lifestyle Centre – Property Arrangements.

Date of Meeting: 19th October 2015

Portfolio Holder: Regeneration and Assets

1.0 Report Summary

- 1.1 The purpose of this report is to seek approval for the Council to close two of three existing leisure facilities located in Crewe and to relocate the provision of those services to Crewe Lifestyle Centre. This does not affect the use and provision of services at Cumberland Sports Ground. To facilitate this, the Council needs to undertake the following exercise:
- a) serve notice to break the existing leases between the Council and Everybody Sport and Recreation (“ESAR”) and to enter into agreements to surrender and thereafter formal deeds of surrender in respect of the existing leases of the Crewe Swimming Pool site, the Oakley and Victoria Community Centre and Leisure Centre and the Cumberland sports ground sites; and
 - b) enter into an agreement for lease and thereafter a lease with ESAR of either the whole or part of the new Crewe Lifestyle Centre, Crewe; and
 - c) enter into an agreement for lease and thereafter a lease with ESAR in respect of the Cumberland Sports Ground; and
 - d) enter into any Licence Agreements required in respect of the Crewe Swimming Pool site and the Oakley and Victoria Community Centre and Leisure Centre sites for the purpose of any site investigations and/or surveys should these be required by any potential future users or purchasers of those sites; and
 - e) advertise the disposal of any areas of public open space within the demise of the land to be contained within the leases of the Crewe Lifestyle Centre and the Cumberland Sports Ground to ESAR.

2.0 Decision Requested

- 2.1 THAT the Council shall serve notice to break; and thereafter enter into an agreement to surrender and a formal deed of surrender of the two existing leases dated 2nd May 2015 made between the Council and ESAR, with regard to their current occupation of Crewe Swimming Pool and The Oakley and Victoria Community Centre and Leisure Centre (inclusive of Cumberland Sports Ground), Crewe. And thereafter the Council and ESAR shall enter into an agreement for lease and a new lease with ESAR in respect of the Cumberland Sports Ground on substantially the same terms and conditions as those in the leases surrendered.
- 2.2 THAT the Council enter into an agreement for lease and a new lease with ESAR of either the whole or part of Crewe Lifestyle Centre, Crewe on such terms and conditions to be agreed by the Council’s Executive Director of Economic Growth & Prosperity and Head of Legal Services and Monitoring Officer and to be substantially on the same terms as those to be granted in respect of the properties referred to in 2.1 above.

- 2.3 That the Council grant Licence Agreements as are required in respect of the Crewe Swimming Pool site and the Oakley and Victoria Community Centre and Leisure Centre for the purpose of any site investigations/surveys should these be required by future users and/or purchasers of the sites.
- 2.4 If there are any areas of public open space within the demise of the Crewe Lifestyle Centre site and Cumberland Sports Ground which are to be included with the lease demises to ESAR to advertise the proposed disposal in accordance with Section 123 of the Local Government Act 1972 (as amended by Section 118 of the Local Government Planning and Land Act 1980) by way of granting a lease and also by the grant of any rights required for the use of the site in accordance with the lease(s). In the event that objections and/or representations are received by the Council in relation to the proposed disposals these will be considered by the decision making officer prior to any final resolution being made in respect of the proposed disposal of the land.

3.0 Reasons for Recommendations

- 3.1 ESAR currently has a lease of Crewe swimming pool located at Flag Lane in Crewe and the Oakley and Victoria Centre and Cumberland Sports Ground in Crewe. The new facilities at Crewe Lifestyle Centre will replace Crewe swimming pool, the Oakley Centre and the Victoria Centre but not the Cumberland Sports Ground. The leases which ESAR currently have of the existing facilities in Crewe permit the Council (subject to conditions) to exercise a right to break those leases upon the grant of a new lease to ESAR of the new facility.
- 3.2 The development of the new Crewe Lifestyle Centre has necessitated the surrender of the existing leases of the leisure facilities in Crewe to enable the Council to offer to ESAR a lease of the new Leisure Centre site (or part of this) as a replacement for Crewe Swimming Pool and The Oakley and Victoria Centre. The Cumberland Sports Ground forms a separate site and as such this will remain open as a leisure facility within the town following the opening of the new Crewe Lifestyle Centre, for this reason the Council will need to enter into a new lease with ESAR in respect of this separate site to secure the ongoing management of the site by ESAR in accordance with the Contract (and any variation required as a result of the development of Crewe Lifestyle Centre) between the Council and ESAR.
- 3.3 If the Council does not terminate the existing leases with ESAR of the current leisure facilities then the Council's interest in these properties is devolved for the period of the lease (until 1st May 2029) and therefore ESAR remain in control of the properties. This will restrict the Council's ability to re-use or dispose of the properties during the term of the leases. ESAR will not require use of the current facilities once Crewe Lifestyle Centre is open to the public as this facility will replace those which exist at the moment (other than the Cumberland Sports Ground).
- 3.4 Crewe Lifestyle Centre has been developed as the new leisure facility within Crewe and as such provision of the leisure services in Crewe shall be carried out at the Lifestyle Centre once this is open for public use. ESAR provide the leisure service on behalf of the Council and the grant of a lease to ESAR of the Lifestyle Centre or part of it will be necessary in order to allow ESAR to undertake their contractual obligations to the Council. The necessary variations to the operating agreement between the Council and ESAR are being dealt with as part of a separate paper.

4.0 Wards Affected

4.1 Crewe Central

4.2 Crewe West

4.3 Crewe East

5.0 Local Ward Members

5.1 Councillor Irene Faseyi

5.2 Councillor Suzanne Brookfield

5.3 Councillor Clair Chapman

5.4 Councillor David Newton

5.5 Councillor Jill Rhodes

5.6 Councillor Brian Roberts

6.0 Policy Implications including - Carbon reduction - Health

6.1 The Lifestyle concept is the integration of all the services that citizens need in relation to their lifestyle in one place. A place to read and learn, to exercise, to have a health related check-up, to participate in community events and to receive social services on offer by the Council. For Cheshire East, the Crewe Lifestyle Centre will provide new all-inclusive leisure facilities, library facilities, modern family and adult social care provision and community facilities all in one place. As an early part of the 'All Change for Crewe' programme, this modern centre will provide a much needed, visible and aspirational investment in Crewe. This will facilitate regeneration within Crewe, improve the customer experience, and enable more efficient delivery of services while providing a 21st century Lifestyle Centre for Crewe.

6.2 Current facilities are dated and not fit for purpose. The Oakley Centre provides dry leisure, social care services and provides a venue for community events though it is not ideally suited for latter services. Crewe Swimming Pool provides wet and dry leisure services. The pool has exceeded its design life and is subject to escalating maintenance costs. The provision is basic, has little room for diversity of use and is not ideally suited for the more severely disabled users. Macon House (not an asset under discussion in this paper) is also due to move its services into the centre from accommodation that has been retrofitted for use and is no longer fit for purpose. The venue arrangements and locations do not currently allow Cheshire East to offer Adult social care users the opportunity to use wet leisure facilities.

6.3 The new centre has been designed from the bottom up by services and will provide a number of service improvements. The building itself is built to the latest design and building standards and the Council will see a net reduction in maintenance backlog and future maintenance. The centre uses a modern combined heat and power plant in combination with a large solar array which will see a net reduction in running costs and a lower overall carbon footprint.

- 6.4 All facilities in the new centre are purpose built with specific regard given in the internal design and layout for users with autism. The new pool will have full 'changing places' standard changing facilities and in-situ lifts in both pools which will greatly increase the accessibility to a wider range of users with disabilities. With adult social care facilities in the same building, users of that service will have easy access to wet leisure facilities. The main pool will be competition standard allowing Crewe for the first time to host recognised swimming events allowing ESAR to increase the leisure offer.
- 6.5 This new centre will contribute to the following strategies underway in the council:
- a) Older adults physically frail from long term care
 - b) Learning Disability Services
 - c) Mental Health Services
 - d) Working age teams
 - e) Older adults care assessment teams
 - f) Leisure Strategy

The new lifestyle centre is providing a 'clean sheet' for the provision of a dedicated asset designed to meet the needs of the above strategies.

7.0 Financial Implications

- 7.1 The surrender of the leases between the Council and ESAR with regard to Crewe Swimming Pool and The Oakley and Victoria Community Centre and Leisure Centre will have no financial impact on the Council given the current financial responsibility the Council has with regard to the maintenance costs as per the Lease and Contract with ESAR.
- 7.2 By surrendering the leases, it will enhance the Council's ability to re-use or dispose of Crewe Swimming Pool and The Oakley and Victoria Community Centre and Leisure Centre which will result in the Council reducing its holding costs and receiving a capital sum if a disposal did proceed.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 Local authorities are able to dispose of land and buildings at less than the best consideration reasonably obtainable under the General Disposal Consent (England) 2003, where the 'undervalue' is less than £2million. A lease for a term of more than 7 years is a disposal. The Consent requires the local authority to be of the view that the disposal is likely to help to secure the promotion or improvement of the economic, social or environmental well-being of its area or residents resident in its area.
- 8.2 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/lease, there would be no further requirement to 'market test' a transfer/lease proposal to meet the General Consent criteria.

- 8.3 The Council considers that the disposals set out in this report have regard to and meet the requirements set out in the General Disposal Consent because the Council is determining two leases and taking back possession of the two existing sites and granting a lease for leisure services on substantially the same terms as per the existing leases.
- 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. On valuations and advice the Council considers there is no State Aid situation or a transfer at an undervalue.

9.0 Risk Management

- 9.1 The Council is underway with the Crewe Lifestyle Centre project with an estimated completion date of April 2016. The risk to the Council is that 2 sites currently being used by ESAR remain subject to leases to ESAR beyond the date that the buildings are vacated and the new Crewe Lifestyle Centre occupied by ESAR and other users.

In order to mitigate the risk the Council has been in dialogue with ESAR for a number of months with regard to proposed timetables and to confirm the Council's requirements to take back the buildings and the proposed dates for this.

The leases that ESAR currently have require a minimum of 12 months notice to end the leases. The Council cannot provide the period of notice legally required, however, ESAR and the Council are working together to agree the vacation of the current premises by ESAR.

There is a risk that the Council is left with empty buildings on the former sites following ESAR's move to the new Lifestyle Centre, however, the future use of The Oakley and Victoria Centre is well underway and the Council are preparing the Crewe Swimming pool site for marketing at the time of writing this report.

10.0 Background

- 10.1 The Council's Cabinet made a resolution on 24th June 2013 to proceed with a transfer of the Leisure Services function to an alternative service delivery model, ESAR. In accordance with the transfer of the Leisure Service it was necessary to grant leases to ESAR in relation to the 13 leisure centre sites across the Borough in order to formalise ESAR's occupation of those buildings for the purpose of running the service.
- 10.2 ESAR currently have a lease of Crewe swimming pool located at Flag Lane in Crewe and the Oakley and Victoria Centre and Cumberland Sports Ground in Crewe. The new facilities at Crewe Lifestyle Centre will replace Crewe swimming pool, the Oakley Centre and the Victoria Centre but not the Cumberland Sports Ground. The leases which ESAR currently have of the existing facilities in Crewe permit the Council (subject to conditions) to exercise a right to break those leases upon the grant of a new lease to ESAR of the new facility. It is proposed that the Council grant a lease to ESAR of Crewe Lifestyle Centre and that the new lease of the Crewe Lifestyle Centre will be on such similar terms as are contained in the current leases. The Lease will be contracted out the security of tenure provisions of the Landlord and Tenant Act 1954 and will run co-terminus with the current ESAR contract for services.

- 10.3 Both existing leases provide the Council with the ability to terminate the leases with ESAR provided that alternative leisure facilities of at least the same standard are provided by the Council in the same town. The development of the new Crewe Lifestyle Centre has necessitated the surrender of the existing leases of the leisure facilities in Crewe to enable the Council to offer to ESAR a lease of the new Leisure Centre site (or part of this) as a replacement for Crewe Swimming Pool and The Oakley and Victoria Centre. The Cumberland Sports Ground forms a separate site and as such this will remain open as a leisure facility within the town following the opening of the new Crewe Lifestyle Centre, for this reason the Council will need to enter into a new lease with ESAR in respect of this separate site.
- 10.4 The new Lease will provide the Council with the ability to terminate the lease with ESAR if for any reason the contract for services terminates prior to its contractual end date, in this case the lease will automatically terminate and the Council will take back possession of Crewe Lifestyle Centre.
- 10.5 If there are any areas of public open space within the demise of the Crewe Lifestyle Centre site and Cumberland Sports Ground which are to be included with the lease demises to ESAR, then it will be necessary to advertise the proposed disposal in accordance with Section 123 of the Local Government Act 1972 (as amended by Section 118 of the Local Government Planning and Land Act 1980). The proposed advert will state that it is the Council's intention to dispose of the land outlined in red on the demise plans which includes areas of public open space, by way of granting a lease and also by the grant of any rights required for the use of the site in accordance with the lease. In the event that objections and/or representations are received by the Council in relation to the proposed disposals these will be considered by the decision making officer prior to any final resolution being made in respect of the proposed disposal of the land.
- 10.6 The Council will be responsible for covering both ESAR's and its own professional fees for negotiating, preparing and completing the relevant notices, agreements and deeds to surrender the existing leases and the agreements and leases in respect of the new leases of the Crewe Lifestyle Centre and Cumberland Sports Ground sites.

11.0 Access to Information

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

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