

CHESHIRE EAST COUNCIL

REPORT TO REGENERATION AND ASSETS COUNCILLOR DON STOCKTON

Report of: Executive Director Economic Growth and Prosperity

Subject/Title: Land at Bollington Leisure Centre and Atax Field, Bollington

Date of Meeting: 4th April 2016

Portfolio Holder: Regeneration and Assets

1.0 Report Summary

- 1.1 To consider a request from Bollington Town Council to transfer Land at Bollington Leisure Centre and adjacent Atax Field, Heath Rd, Bollington, Macclesfield, Cheshire East SK10 5EX (shown edged red on the attached plan) by way of 125 year lease for a £1 as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process.
- 1.2 The Council has the opportunity to support by way of a 125 year lease to Bollington Town Council the Bollington Cross Project. A key element in supporting this project is to transfer land held by Cheshire East to Bollington Town Council who in turn will enter into a separate agreement with Bollington Health and Leisure (BHL), a not for profit company with charitable status who will then manage the site on their behalf. This transfer of a long lease through a transfer to Bollington Town Council is required to enable Bollington Town Council and Bollington Health and Leisure to apply for a variety of grant funding to complete the project. This is a critical step towards completing this community sustainable project which will enhance and improve a leisure facility in Bollington.
- 1.3 The Bollington Cross Youth Project has an allocation of s106 money for a Multi Use Games Area and a contribution towards restructuring an additional full size football pitch with two training pitches. The long term development of the project as well as future maintenance and management will be achieved through Bollington Town Council and Bollington Health and Leisure Trust who will take on additional external responsibilities supported by Bollington United Football Club. Planning Permission has been obtained (13/2082M) but expires in August 2016. The Section 106 expires in 2018 and therefore this 125 year lease is required to ensure the relevant funding can be explored and that the planning permission can be implemented in time.
- 1.4 The 125 year lease will be in line with the standard terms that was decided by Cabinet on the 5th September 2011 where the use will be protected, the Town Council will be responsible for the service and asset in the future and it will include an overage provision on the basis that 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.

2.0 Decision Requested

- 2.1 The land at Bollington Leisure Centre and adjacent Atax Field, Heath Rd, Bollington, Macclesfield, Cheshire East SK10 5EX (shown edged red on the plan attached to the Report) ('the Land') be advertised as a disposal of public open space;
- 2.2 Following the statutory process and due consideration of the responses to the open space advertisements, the Portfolio Holder for Regeneration and Assets in consultation with the Portfolio Holder for Communities be given delegated authority to determine whether to transfer the Land by way of a 125 year lease to Bollington Town Council; and
- 2.3 Any leasehold transfer of the Land shall be on the terms stated in the Report, or such other terms as the Portfolio Holder for Regeneration and Assets shall determine in consultation with the Assets Manager and the Director of Legal Services.

3.0 Reasons for Recommendations

- 3.1 On 5th 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 Land at Bollington Leisure Centre and adjacent Atax Field, Heath Rd, Bollington, Macclesfield, Cheshire East SK10 5EX was neither an Appendix A nor an Appendix B property but has since been identified as

an appropriate asset to be devolved to the Town Council. The 125 year lease to Bollington Town Council will be based upon the standard heads of terms and, as it will prohibit a change of use.

- 3.4 Through an allocation of S106 development funding in 2014/15 £100,000 has been allocated to the Bollington Cross Project. Bollington Town Council and BHL will also approaching grant giving organisations such as The Football Association, The Cheshire Branch of the Football Association, The National Lottery and WREN funding. The Bollington Cross Youth Project has been an ambition for many years but it was only following the availability of £100K Section 106 funding which is required to be spend before 2018 from the Kay Metzeler Housing Development in 2013 that the project was able to get underway in earnest.
- 3.5 Planning Permission has been obtained (13/2082M) for the replacement of an existing football pitch and for the provision of two new mini football pitches and associated facilities including additional car parking and multi-use games area. This permission was obtained on the 5th August 2013 and is due to expire in August 2016. Therefore this transfer will allow the planning permission to implement before the expiry date.

4.0 Wards Affected

- 4.1 Bollington

5.0 Local Ward Members

- 5.1 Cllr Jonathon Weston
Cllr Amanda Stott

Ward members have been consulted and are supportive of the scheme.

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 The 125 year lease is in line with the Council's policy of transfer and devolution of assets to Town and Parish Councils for a nominal value.

7.0 Financial Implications

- 7.1 A lease to Bollington Town Council would have a financial impact on the Council's budget in 2015/16 as there are currently operational costs with regard to maintenance. Once the land has transferred/leased, then all repair and maintenance becomes the responsibility of Bollington Town Council and that they would be directly liable. Therefore the operational cost for this site will be reduced.
- 7.2 The scheduled work activity carried out on the site by ANSA, as part of the the management fee to ANSA equates to approximately £1,800 per annum and this is delivered as part of the whole grounds maintenance package.

- 7.3 The Council over the past three years has received an income from the use of the site including pitch hire of approximately £2,100. £650 of this is what the Council is currently receiving by way of a rent from Bollington Health and Leisure Trust and the Trustees of Bollington Junior Football Club in respect of part of the site. Therefore the Council will be forgoing a surplus amount of £300 per annum. However, given the uncertainty with regard to the income that the Councils receive from the pitch hire as these vary from year to year then it is envisaged that there could be no surplus in the future and it will be cost neutral going forward.
- 7.4 By entering into a 125 year lease with Bollington Town Council, the Council would be foregoing any capital receipt for the disposal of the land. The unrestricted market value of the site is £230,000 and therefore the lease will be at an undervalue.

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 Circular (Circular 06/03) in which 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.

Assets have confirmed this transaction is compliant from a valuation aspect under the rules.

- 8.2 In transferring assets the Council must behave prudently to fulfil its fiduciary duty.
- 8.3 The Council is transferring this site at a undervalue to enable Bollington Town Council (statutory authority) to provide an enhanced leisure service for the wider public benefit. Therefore the Council is relying on its powers in regard of the promotion and improvement of the economic, social and environmental well being to the local community and wider public.

- 8.4 Given the site is to be transferred to a Statutory not for profit local authority Public Body, then state aid rules are exempt.
- 8.5 As there is open space within the land outlined red on the attached plan, then it will be necessary to advertise the potential disposal of the Land at Bollington Leisure Centre and adjacent Atax Field, Heath Rd, Bollington, Macclesfield, Cheshire East SK10 5EX under the provision of the Local Government Act. If objections to the disposal are made, the objections have to be considered and on the merits of the objections a decision will have to be made as to whether to proceed with the lease disposal. The Portfolio Holder will be asked to decide whether the lease will be granted following a separate report being made to him if necessary at the appropriate time. The decision by the Portfolio Holder will be subject to a judicial review challenge so the consideration will have to be fair and robust.

9.0 Risk Management

- 9.1 The 125 year lease will prohibit changes of use from Sports and Leisure.

10.0 Background Information

- 10.1 Bollington Town Council have approached the Council to transfer the Land at Bollington Leisure Centre and adjacent Atax Field, Heath Rd, Bollington, Macclesfield, Cheshire East SK10 5EX by way of 125 year lease to enable them to enhance the Sports and Leisure facilities on the site. This is a joint venture proposal with Bollington Health Leisure Trust (BHL) and known as the Bollington Cross Youth Project with Bollington Health Leisure Trust.
- 10.2 BHL, a registered charitable trust currently has a long lease of the Leisure Centre (outlined in Purple on the attached plan) which is open for public use and managed by BHL. BHL is a separate trust to Everyday Sports and Leisure Trust (ESAR) and does not form part of their existing Leisure facilities. BHL is helping to deliver the proposed project on this site, as well as the adjacent playing fields known as Atax Field.
- 10.3 BHL currently has a Ground Lease for the Leisure Centre which has 18 years left to run as it is due to expire in 2033. The current annual rent received is £200. The Trustees of Bollington United Football club also have a lease of the adjacent land (outlined in Orange on the attached plan) where a pavilion is situated. This lease also due to expire in 2033 and the annual rent received is £400. The project has the full support of the Trustees of Bollington United Football Club (BUFC). The leasehold transfer will be subject to the existing leases with regard to BHL and BUFC.
- 10.4 The Bollington Cross Project is a £450k project which has support from monies received as a result of s106 planning obligations and from the

Football Foundation. The Bollington Cross Youth Project has an allocation of s106 money for a Multi Use Games Area and a contribution towards restructuring an additional full size football pitch with two training pitches. The long term development of the project as well as future maintenance and management will be achieved through a request for the Leisure Centre Trust to take on additional external responsibilities supported by Bollington United Football Club.

- 10.5 Bollington Health and Leisure manage a Leisure facility that provides a range of indoor sporting activities for all ages. Bollington Town Council and BHL have an agreement that BHL should manage the improved outdoor leisure facilities for young people in the longer term.
- 10.6 BHL has acquired adjacent land (outlined in Green on the attached plan) which will now enable the remaining grant to be sourced and the project to proceed to the next stage. Planning permission 13/2082M has already been obtained. The permission is for the replacement of existing football pitch and provision of two new mini football pitches and associated facilities including additional car parking and multi-use games area. However, any transfer/lease would **not** include the Children's' play area which would remain in the ownership of the Council (outlined in blue on the attached plan).
- 10.7 Bollington Town Council have confirmed that it has no intention of this land being used for any other purpose than for leisure and sports facilities and the intention is that it will protected for this use within the Bollington Town Council developing neighbourhood plan, which is currently being worked on but not yet adopted. The public open spaces / pitches are protected under current and emerging Local Plan Policy and identified on the councils open space assessment. The current policy numbers are RT1, RT5 and Green Space Strategy which is the background evidence for the emerging local plan.
- 10.8 The client service has confirmed that the land is not surplus to operational requirements. However, they have advised that the proposed project will be beneficial as it will provide enhanced football, leisure and recreational opportunities for Bollington and the local community. Therefore, the Client Service supports the lease proposal.
- 10.9 The lease will be subject to Bollington Town Council entering into a covenant pursuant to section 33 covenant of the Local Government (Miscellaneous Provisions) Act 1982 to bind the owner of the land with respect to of the proposed use of the site as a Leisure Facility. If the Bollington Town Council or BHL cease to exist or cease to be a charity (BHL only) then the lease will determine and revert back to Cheshire East Borough Council to provide a Leisure Service.

11.0 Access to Information

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

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