

CHESHIRE EAST COUNCIL

Cabinet

Date of Meeting:	3 rd May 2016
Report of:	Steph Cordon, Head of Communities
Subject/Title:	Transfer of Gables, Nantwich to Nantwich Town Council
Portfolio Holder:	Cllr Paul Bates, Communities and Health

1. Report Summary

- 1.1. Cheshire East Council (CEC) is committed to delivering services tailored to its individual communities. Cabinet approved a list of assets to transfer to town and parish councils in September 2011 although the Gables in Nantwich was included it required further work and discussion to take place in order to progress the transfer, subsequently this was put on hold.
- 1.2. During the last year CEC has been in negotiations with Nantwich Town Council (NTC) around transferring the freehold of the Gables which will include all tenants currently situated in there.
- 1.3. The Town Council has ambitious plans to extend the Civic Hall which they took ownership of under the initial round of transfers.
- 1.4. CEC is working closely with the Town Council to establish a vibrant community hub in Nantwich and as such the Town Council have asked that the normal clawback provision is amended and won't be enacted if the Town Council dispose of the Gables and reinvest the capital receipt into the capital expenditure plans to extend the Civic Hall.

2. Recommendation

- 2.1. Give delegated authority to the Interim Executive Director of Economic Growth and Prosperity, in consultation with the Portfolio Holder for Regeneration and Assets, the Portfolio Holder for Communities, Head of Assets and the Director of Legal Services, to finalise and agree terms for the transfer, and once agreed, for the Director of Legal Services to execute all necessary documentation to give effect of the transfer.
- 2.2. CEC approve the transfer of the freehold of the Gables to Nantwich Town Council to include a small part of the car park to the rear as well as land adjacent to the car parking meter to the side of the building.
- 2.3. CEC grant a licence for the Town Council to access the library in order to access the community group room in the new extension. This would involve shared use of the entrance and lift area, but no other areas.

- 2.4. CEC approve an amendment to the standard overage provisions usually contained within localism transfers. The amendment will provide that the clawback will only be payable if the receipt received from such disposal of the Gables is not wholly reinvested into the capital expenditure for the proposed extension to Nantwich Civic Hall.
- 2.5. Approve the transfer of 'the land' (being a small amount of the car park to the rear of the Civic Hall).

3. Other Options Considered

- 3.1. CEC retain ownership and control of the Gables and the car park

4. Reasons for Recommendation

- 4.1. The Gables is a community building which caters for the different aspects of the community within Nantwich and plays host to a very popular luncheon club and until recently was part occupied by the Citizens Advice Bureau.
- 4.2. In Nantwich a network of Community Hubs and other sites, including children's centres with a focal point at the Civic Hall, will ensure that assets are sustainable and that they work together to provide the right services, in the right places, at the right times.
- 4.3. The primary use is consistent with those assets that were originally identified as part of the 2011 Cabinet report and which have subsequently transferred to Town and Parish Councils.
- 4.4. In order for the development to take place at the Civic Hall there is a need to transfer a small part of the car park to the rear of the building and also a small amount of land next to the parking meter which is powered from within the Civic Hall. It is a yellow lined hatched area reserved for deliveries to the Civic Hall and is not laid out as car parking spaces or used for car parking. There will therefore be no loss of income to CEC if this land is transferred and this will provide adequate space for the necessary rear exit from the Civic Hall and tidy up both Council's boundaries
- 4.5. The Town Council would take on full accountability for all aspects of the transfer including all running costs and existing bookings, in turn, the Town Council would receive any income associated with the rent of the Gables. The Town Council has asked for both the Gables and the small car park at the rear of the building, although a general assumption was made that no car parking would transfer, a provision was made within the original 2011 report to transfer car parks that were an integral part of the running of the facility and in this case the associated use and transfer of the car park is deemed as essential.

5. Background/Chronology

- 5.1. It is important to remember that Nantwich were one of the leading Town Councils during the initial transfer process and were among the first to take responsibility for the direct running of assets.
- 5.2. Cheshire East Council is committed to delivering services tailored to its individual communities and has a borough wide ambition to create a network of hubs that service the local needs of residents by the people who understand their communities best.
- 5.3. In some cases this means moving more to local ownership (which is in line with the original transfer policy) so that the asset can be better utilised or as in Nantwich's case, be sold as part of a local review and the proceeds be reinvested for the good of the community.
- 5.4. In Nantwich, a network of Community Hubs with a focal point at the Civic Hall, will ensure that assets are sustainable and that they work together to provide the right services, in the right places, at the right times.
- 5.5. The Town Council have identified a series of improvements to the Civic Hall, part of which will provide a community hub for Nantwich, these in turn will secure the future of the Civic Hall as a community building by:
 - maximising letting income to reduce operating costs
 - providing accommodation for community groups such as Citizens Advice Bureau and Luncheon Club
 - providing an up to date venue for groups and activities arising from the Community Hub concept
 - enabling staging of more shows and concerts
 - enabling the building to be operated in part or in combination with the library
- 5.6. In order for the proposed development of the Civic Hall a small amount of the existing car park to the rear of the building will be required as well as a small part of the hatched area to the side, this does not affect the current number of parking spaces but may require the car parking order to be amended.
- 5.7. The Town Council has put forward a proposal and outline feasibility plans developed by Bower Edleston Architects Ltd, together with cost estimates for the initial scheme.

6. Wards Affected and Local Ward Members

- 6.1. Nantwich North and West

- 6.1.1. Cllr P Butterill

6.1.2. Cllr A Moran

7. Implications of Recommendation

7.1. Policy Implications

7.1.1. This initiative aligns with the first priority of the Sustainable Community Strategy “nurturing strong communities” and is part of Cheshire East’s drive to ensure that working locally is at the heart of what we do.

7.1.2. This is in line with the original transfer policy that was approved by Cabinet on the 5th September 2011, other than as to the terms of overage on disposal of assets, and as set out earlier in this report.

7.2.1 Legal Implications

7.2.1.1 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. The transfer 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 in its area.

7.2.1.2 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, there would be no further requirement to 'market test' a transfer proposal to meet the General Consent criteria.

7.2.1.3 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.

7.2.1.4 If the Council is minded to transfer the asset to Nantwich Town Council it needs to have rationalised why the disposal brings benefits that outweigh undertaking a market process and establish it is for community purposes not likely to distort State Aid.

7.2.1.5 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 £156,531.00 (as at 15th March 2016) (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).

State aid rules can (among other things) apply to the following:

- grants
- loans
- tax breaks
- the use or sale of a state asset for free or at less than market price.

The rules can apply to funding given to charities, public authorities and other non-profit making bodies where they are involved in commercial activities. It is the activity that needs to be considered.

- 7.2.1.6 The proposed disposal of the public open space within the land concerned has been advertised under the provisions of the Local Government Act 1972. No objections or representations were received as a result of the advertising process.

7.3. Financial Implications

- 7.3.1. If the Gables is transferred to Nantwich Town Council for nil consideration then the Council will forego a capital receipt. The current net book value of the asset is £47,500 on an existing use valuation basis. However if valued on a market value. i.e. the price paid on the open market, this could be considerably higher and is anticipated to be somewhere in the region of £240,000 - £280,000, and the associated car park £25,000 - £30,000.

- 7.3.2. There is a Revenue budget for The Gables which includes £3k held by Facilities Management for repairs and maintenance and £8k in Assets for premises costs. There is no budget for the Community Centre and no staffing budget implications as it is assumed to have transferred by the start of 2016-17.

7.4. Equality Implications

None

7.5. Rural Community Implications

- 7.5.1. None

7.6. Human Resources Implications

- 7.6.1. There is a member of staff employed at The Gables who has a TUPE right, the individual concerned has been consulted on the proposed transfer.

7.7. Public Health Implications

7.7.1. None

7.8. Other Implications (Please Specify)

7.8.1. None

8. Risk Management

8.1. There is a risk that this will set a precedent for future transfers, however each and every case is considered on its own merit and where there is any change to policy already set out in the 5th September 2011 report this will be reported back to Cabinet for a decision.

9. Access to Information/Bibliography

9.1. Cabinet report 5th September 2011.

10. Contact Information

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