

CHESHIRE EAST COUNCIL

CABINET MEMBER FOR REGENERATION - COUNCILLOR DON STOCKTON

Report of: Interim Executive Director of Place

Subject/Title: Lease of land being part of the car park located at The Carrs Country Park, Wilmslow

Date of Meeting: 2nd September 2016

Portfolio Holder: Regeneration

1.0 Report Summary

- 1.1 The purpose of this report is to consider a request from Wilmslow Town Council to lease for a term of 30 years at an undervalue (£1 premium with a peppercorn rent) a parcel of land located within the car park at The Carrs Country Park, Wilmslow, Cheshire SK9 4AA (shown edged red on the attached plan) as part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process. This will enable the delivery of a public convenience and kiosk facility which will improve residents access to The Carrs Country Park.

2.0 Decision Requested

- 2.1 Subject to obtaining the necessary approval for the removal of the three car parking spaces, to lease the area of land shown on the attached plan being part of the car park at The Carrs Country Park, Wilmslow, Cheshire SK9 4AA to Wilmslow Town Council in line with the terms stated in 3.2 and other terms to be agreed by the Assets Manager.
- 2.2 The 30 year lease will be in line with the decision made by cabinet dated 12th July 2016 and on standard terms that was decided by Cabinet on the 5th September 2011 where the use will be protected and the Town Council will be responsible for the service and asset in the future.

3.0 Reasons for Recommendations

- 3.1 The subject land will be used to situate a public convenience and kiosk. This use will enhance the use of the park and therefore mitigating the loss of 3 parking spaces.
- 3.2 On 12th July 2016 and consistent with the Council's approach to asset transfer, it was decided by the Cabinet that a number of properties should be considered for transfer to the Town or Parish Council for the area in which the properties are located as a first phase of the Local Service. This property has been identified as a suitable asset to be transferred to the Town Council as it will assist in the delivery of services to residents.
- 3.3 In the cabinet paper it was reported to Cabinet that every lease would be on the following terms namely that:

- The term of lease will be 30 years,
- The lease would protect community use of the asset.
- The 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.

And Cabinet resolved that delegated authority be given to the Portfolio Holder for Regeneration to approve the terms, in consultation with the Portfolio Holder for the relevant service managing or responsible for the asset in question and the Executive Director – Place and authorise the legal completion of those asset transfers in accordance with the Council's Constitution

- 3.4 Cheshire East Council is not statutorily required to transfer this piece of land to the Town Council. As a result the transfer also falls in line with the Cabinet paper dated 12th July 2016 which sets out the framework for disposal of assets by the Council.
- 3.5 The service department have confirmed that they are content to accommodate the request of the Town Council to lease the land for the required purpose.

4.0 Wards Affected

- 4.1 Wilmslow Lacey Green

5.0 Local Ward Members

- 5.1 Cllr Don Stockton

6.0 Policy Implications including - Carbon reduction - Health

- 6.1 The lease of land for a premium of a £1 at a peppercorn rent is in line with the Council's policy of transfer and devolution of assets to Town and Parish Councils.

7.0 Financial Implications

- 7.1 The existing site has an existing use value which is between £10,000 to £15,000 based on the income received and therefore the Council proposes to forego the capital receipt in this instance to support the erection of this public convenience/ kiosk facility. Should the existing use change then the value of the site will correspondingly also change. As the land is within a car park it is not likely that it would be attractive in

the open market. As it is proposed to create sanitation the likely cost of investment exceeds the value of the asset. As a result if the land was removed from the car parking order and declared surplus, it would minimal value given its location.

- 7.2 The proposal would lead to the loss of three car park spaces and the potential loss of income from them. Based on the income levels in 2015-16, the maximum loss this would be is in the region of £500 p.a. It is expected this would be offset by an increase in people parking to use the new facilities and parking in the remaining car parking spaces in the car park

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 dispose of the land pursuant to s123 of The Local Government Act 1972 subject to it being at the best consideration that can reasonably be obtained. As the land is deemed to be public open space, then 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.
- 8.3 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, as in this case, and subject to those powers being exercised in line with public law principles.
- 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.
- 8.5 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 £155,000 (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).

9.0 Risk Management

- 9.1 There are no risk management implications.

10.0 Background Information

- 10.1 The land is owned freehold by Cheshire East Borough Council, falls within the area known as The Carrs Country Park and will occupy three car parking bays.
- 10.2 The Council has received a request is to enable Wilmslow Town Council to erect a modular building on the land at The Carrs Car Park, Wilmslow for the provision of a toilet facility and refreshment kiosk for the benefit of the Country Park and play area.
- 10.3 The extent of the land required by Wilmslow Town Council is shown outlined in red on the attached plan for identification purposes. The Client Service is Parking Services, and the Service supports the proposal at this location.
- 10.4 Wilmslow has 4.73ha of children's play space, representing 0.21ha per 1,000 of resident population, leaving a shortfall of 0.39ha per 1,000 - a shortage of 8.8ha. The Carrs Car Park is in a central location and serves the whole of Wilmslow. This Carrs Country Park attracts visitors from across Wilmslow and its hinterland and the Town Council have evidence to show that this additional facility will be well used. The site sits on the Bollin Valley Way so the new toilet facility will also be appreciated by walkers on this recreational route.
- 10.5 The site is not surplus to requirements but the proposal offers an enhancement to the facility for the benefit of users. The Car Park is subject to a car parking order and therefore the necessary approval will be required in order for three car parking spaces to be removed from the order.
- 10.6 The Cabinet Member for Regeneration and Assets with the Cabinet Member for Communities provided authority dated 11th August 2015 for the Council to transfer a parcel of the land to Wilmslow Town Council to enable to erect a modular building on the land adjacent to The Carrs Car Park, Wilmslow. The transfer was subject to Wilmslow Town Council obtaining planning permission for the erection of this modular building. However, following pre-application planning advice, it was deemed that the proposed location would not be suitable and therefore Wilmslow Town Council would not be granted planning permission.
- 10.7 Following this, Wilmslow Town Council has explored further options as to where the modular building can be located. The land at the Carrs Car Park, Wilmslow has been identified as the preferred option. Wilmslow Town Council has discussed this location with the Cheshire East

Councils Planning Authority and the proposed location has received positive feedback.

11.0 Access to Information

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

Name: Lee Beckett

Designation: Surveyor

Tel No: 01270 686122

Email: lee.beckett@cheshireeast.gov.uk