

CHESHIRE EAST COUNCIL

PORTFOLIO HOLDER FOR REGENERATION

Date of Meeting: 23rd January 2016

Report of: Executive Director -Place

Subject/Title: Lyme View Allotment, Sutton, Macclesfield

Portfolio Holder: Regeneration

1.0 Report Summary

- 1.1 The purpose of this report is to approve the disposal of Lyme View Allotments, Sutton, Macclesfield by way of a 125 year lease as shown edged red on the attached plans to Sutton Parish Council.
- 1.2 This approval falls part of the Local Service Delivery -Transfer and Devolutions to Town and Parish Councils process and is in line with the previous cabinet decisions dated 5th September 2011 and 12th July 2016 which sets out the framework for disposal of assets by the Council.

2.0 Decision Requested

- 2.1 It is recommended that Portfolio Holder for Regeneration;
 - 1) approves a 125 year lease of the above allotment to Sutton Parish Council for a nominal value, on the terms stated and any other terms to be agreed by the Assets Manager in consultation with the Director of Legal Services, and
 - 2) authorises the Director of Legal Services to approve all legal documentation and proceed to practical completion of the lease and any other legal documentation.

3.0 Reasons for Recommendations

- 3.1 On 5th September 2011 it was decided by the Cabinet that a number of 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.
- 3.2 Whilst this falls in line with the Cabinet Decision dated 5th September 2011, which provided consent to transfer a number of assets, this process also falls in line with the Council's general approach to asset transfer and the Cabinet paper dated 12th July 2016 which sets out the framework for disposal of assets and the policy on terms of the disposal.
- 3.3 It was reported to Cabinet in July 2016 which was consistent with Cabinet paper dated in 2011 that every transfer or lease would be on the following terms namely that:

- The lease would protect community use of the asset.
- The lease would have a nominal value (£1) and the Town Council will be wholly responsible for the service and the asset save any residual legal responsibilities of the Council.

3.4 The transfer to Sutton Parish Council will be based upon the standard heads of terms.

3.5 Cheshire East Council (CEC) is committed to delivering services tailored to its individual communities. Lyme View Allotments is a community asset which caters for the different aspects of the community within the parish of Sutton.

3.6 Sutton Parish Council will ensure that this asset is sustainable and will work with the local community to provide the right services, in the right places, at the right times.

4.0 Wards Affected

4.1 Sutton

5.0 Local Ward Members

5.1 Cllr Hilda Gaddum

6.0 Policy Implications including - Climate change - Health

6.1 The transfer is in line with the Councils policy of Local Service Delivery - Transfer and Devolutions to Town and Parish Councils.

7.0 Financial Implications

7.1 The impact of the lease to Sutton Parish Council would have minimal financial impact on CEC budget in 16-17 as there are currently minimal operational costs.

7.2 Once the Allotments have transferred, then all repair, maintenance, utility costs and rates become the responsibility of the Town Council.

8.0 Legal Implications

- 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 no power to dispose of property 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
- All other conditions and requirements of the Consent are satisfied.
- 8.3 It has been confirmed that the value of the above aforementioned site does not exceed £2million.
- 8.4 Notwithstanding the above powers the Council has a fiduciary duty to the taxpayers and must fulfil this duty in a way which is accountable to local people
- 8.5 In transferring assets the Council must behave prudently to fulfil its fiduciary duty
- 8.6 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). State Aid does not apply in this instance because this is a

transaction between statutory bodies where there is no distortion of the market or competition.

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 a 25 year period with increase in value/ proceeds of sale returning to Cheshire East on a reducing sliding scale.

10.0 Background Information

- 10.1 On the 5th September 2011 it was decided by the Cabinet that a number of 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.
- 10.2 This land was not on either of the Appendix A or Appendix B property lists approved to transfer in the 5th September 2011 Cabinet decision.
- 10.4 Sutton 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.
- 10.5 The purpose of this request is to enable Sutton Parish Council to enhance the existing allotment facility at Lyme Green, Sutton. Cheshire East Council is committed to delivering services tailored to its individual communities and has a borough wider ambition to create a network that service the local needs of residents by the people who understand their communities best.
- 10.6 In some cases this means moving more to local ownership (which is inline with the original transfer policy) so that the asset can be better utilised and managed for the good of the community.

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