

## REPORT TO LAND AND ASSET MANAGEMENT COMMITTEE

**14 September 2017**

Exempt information relating to terms proposed for the disposal / acquisition of property or the supply of goods or services and disclosure would be likely to prejudice the Council.

The information contained in this report is strictly confidential and in accordance with the appropriate Codes of Conduct, must not be disclosed to unauthorised persons

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| <b>Subject:</b>  | Former Car Park, Haden Road, Cradley Heath  |
| <b>Director:</b>   | Chief Executive – Jan Britton<br>Executive Director – Resources – Darren Carter       |
| <b>Contribution towards Vision 2030:</b>   |  |
| <b>Key Decision:</b>   | No  |
| <b>Forward Plan (28 day notice) Reference:</b><br><small>(A 28 day notice of key decisions that the Cabinet is expected to take over the next three months).</small> | Not applicable  |
| <b>Cabinet Member Approval and Date:</b>   | Councillor Moore<br>6 September 2017  |
| <b>Director Approval:</b>  | 30 August 2017  |
| <b>Ward Councillor (s) Consulted (if applicable):</b>  | Councillor Eaves<br>Councillor Price  |
| <b>Scrutiny Consultation Considered?</b>   | Not referred to Scrutiny for consideration  |
| <b>Contact Officer(s):</b>   | Kerry Jones<br>Senior Property Officer<br>kerry_dawn_jones@sandwell.gov.uk            |

## **DECISION RECOMMENDATIONS**

That Cabinet be recommended to:

- 1 not proceed with Minute No 144/15 of Cabinet at its meeting on 19 August 2015 in so far as it relates to disposal of the freehold interest in the former pay and display car park off Haden Road, Cradley Heath;
- 2 subject to 1 above, authorise the Director – Monitoring Officer to grant a 25 year lease of the car park shown for identification purposes only edged black on Plan No SAM/21440/003 to the owner of The Regis Banqueting Suite on terms and conditions to be agreed by the Executive Director - Neighbourhoods; and
- 3 subject to 1 above authorise the Director – Monitoring Officer to enter into or execute under seal, if necessary, any other related documentation in connection with the grant of the lease of the land referred to in recommendation 2 above, on terms and conditions to be agreed by the Executive Director – Neighbourhoods.

### **1 PURPOSE OF THE REPORT**

- 1.1 The purpose of this report is to rescind a previous minute giving authority to dispose of the freehold interest in the former pay and display car park off Haden Road, Cradley Heath and instead to grant a lease of the site to the owner of the banqueting suite opposite known as The Regis.

### **2 IMPLICATION FOR THE COUNCIL'S AMBITION**

- 2.1 The proposal in this report contributes to achieving the Council's Ambition 8 by ensuring that there is no detrimental impact upon the Regis Banqueting Suite by providing parking facilities for its patrons.

### **3 BACKGROUND AND MAIN CONSIDERATIONS**

- 3.1 Following a review of the provision of public pay and display car parks throughout the borough, Cabinet at its meeting on 19 August 2015 declared surplus, and subsequently authorised disposal of, the freehold interest in a number of pay and display car parks which were no longer considered financially viable (Minute No 144/15) refers.

- 3.2 This approval included the car park off Haden Road, Cradley Heath. Following its subsequent closure, however, the owner of the banqueting suite opposite complained that the Council's actions would have a detrimental impact upon his business and cause parking chaos in the locality. The Regis Banqueting Suite is a previously owned Council municipal restaurant which was sold a number of years ago on the open market. The property was purchased and refurbished to allow for its current use.
- 3.3 It subsequently transpired that whilst the car park is under utilised during the day it may be fully utilised after cessation of parking charges by patrons of The Regis Banqueting Suite.
- 3.4 In the original report to Cabinet, it was stated that the on-going maintenance costs associated with the car park out-weighed the income generated from its use. It would not seem feasible therefore for the Council to re-open it as a pay and display car park unless it changes its existing policy for parking charges by making users pay after 6.00 pm.
- 3.5 By the same token however, the Council may, by closing the car park on a permanent basis, inadvertently cause detriment to one of the local businesses and subsequent employers in the borough.
- 3.6 Discussions have been held with the owner regarding the possibility of him leasing the car park for use by patrons of The Regis Banqueting Suite. The proposal to lease the car park to him has the support of the local ward members, namely Councillors Eaves and Price.
- 3.7 It is not considered that a freehold sale should be affected since there is no justification to allocate the site directly to the owner as he is not an adjoining land owner and additionally the Council's land is suitable for development in isolation.
- 3.8 If, at any time in the future, The Regis ceased to operate the Council would wish to maximise the capital receipt generated from the sale and provide evidence that it had met the requirements of Section 123 of the Local Government Act, 1972 in doing so.
- 3.9 The grant of any lease to the owner would ensure that use of the car park is directly linked to use by patrons of The Regis Banqueting Suite only. The lease will absolve the Council of any repair and maintenance liabilities and a provision would be included stating that the lease will cease to exist if The Regis ceases to trade or if The Regis is utilised for any other purpose other than its current use ie a banqueting suite. In addition, there will be no intention for the owner (or any future owner of The Regis) to have automatic right to a further lease upon expiry of the proposed lease term of 25 years.

- 3.10 The grant of a lease is usually dealt with under powers delegated to the Director in the scheme of delegation but in this instance as members have already authorised disposal of the freehold interest in the car park on the open market it is necessary to rescind the previous approval.

#### **4 THE CURRENT POSITION**

- 4.1 To avoid any potential issues the car park has, for the present time, remained open for use although the pay and display machines have been removed as well as the parking signs and lighting. No parking charges are currently being levied.
- 4.2 The Council is currently responsible for repair and maintenance of the car park by virtue of its due of care. In addition rates are still payable.

#### **5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)**

- 5.1 There has been no consultation with customers and/or stakeholders.

#### **6 ALTERNATIVE OPTIONS**

- 6.1 The alternative option is to dispose of the freehold interest in the car park on the open market thus generating a capital receipt which could be used to help fund the Council's capital programme.

#### **7 STRATEGIC RESOURCE IMPLICATIONS**

- 7.1 The Director - Regeneration and Planning is of the opinion that the grant of a 25 year lease to the owner of The Regis Banqueting Suite will generate a commencing annual rental of £XXXX per annum. The rent will be reviewed at 5 year intervals in an upward direction only. This income would contribute to the annual income generation target.
- 7.2 If, however, the car park was offered to the open market it is likely that a capital receipt in the region of £XXXXXXXX would be achieved but this does not reflect any abnormal ground conditions which may reduce the sum obtainable.

#### **8 LEGAL AND GOVERNANCE CONSIDERATIONS**

- 8.1 The Council is entitled to dispose of property, but must comply with the duty contained in Section 123 of the Local Government Act, 1972 which requires the disposal to be for the best consideration reasonably obtainable.

8.2 The lease will be granted in accordance with the provisions of the Landlord and Tenant Act, 1954 but will exclude Sections 24-28 of the Act entitling the tenant to a further tenancy upon expiry of the 25 year lease term

## **9 EQUALITY IMPACT ASSESSMENT**

9.1 It has not been necessary to undertaken an equality impact assessment as the report is merely seeking to authority to rescind an existing approval and grant a lease of a parcel of land.

## **10 DATA PROTECTION IMPACT ASSESSMENT**

10.1 There are no specific data protection measures to consider, all data relating to the matter is maintained in accordance with the Data Protection measures previously implemented by the Council.

## **11 CRIME AND DISORDER AND RISK ASSESSMENT**

11.1 There are no specific crime and disorder implications to consider. The land in question is a car park that will be leased to a third party for exactly the same purpose.

## **12 SUSTAINABILITY OF PROPOSALS**

12.1 The lease will be granted in accordance with the provisions of the Landlord and Tenant Act, 1954 and also to meet the requirements of the Royal Institute of Chartered Surveyors (RICS) lease code of practice. There has been no notification that there will be any significant amendments to either the legislation or the industry standard.

## **13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)**

13.1 The benefit to the wider community is the social value of the car park remaining open for use by patrons of the Regis Banqueting Suite.

## **14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND**

14.1 This report is in line with Council's asset management strategy to make greater use of underutilised assets and to generate a more efficient and effective asset portfolio by disposing of underutilised and or uneconomic assets, wherever possible.

14.2 The grant of a lease as proposed will mean that the asset is transferred from the Assets held pending disposal register to the non operational estate register to be managed as part of the leased commercial estate.

## 15 **CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS**

15.1 The main reason for seeking the approvals outlined in this report is to ensure that there is no detrimental impact upon the Regis Banqueting Suite and that potential car parking issues are avoided.

## 16 **BACKGROUND PAPERS**

16.1 There are no further background details.