

<b>REPORT TITLE</b>	<b>SALE OF LAND AT ARROWE PARK ROAD, UPTON</b>
<b>REPORT OF</b>	<b>CORPORATE DIRECTOR OF DELIVERY SERVICES AND ASSISTANT CHIEF EXECUTIVE</b>

**REPORT SUMMARY**

This report seeks approval to the sale of land at Arrowe Park Road, Upton.

The sale will support the Wirral Plan and its delivery through the generation of a capital receipt and promotion of economic activity.

The matter affects the Upton Ward and is not a key decision.

**RECOMMENDATIONS:**

That:

1. the public open space land edged red on the attached plan at Arrowe Park Road, Upton ("the Site"), be declared surplus to Council requirements;
2. the Corporate Director of Delivery Services/Assistant Chief Executive be authorised to agree a sale of the Site to Lidl GB Ltd. at £820,000 plus fees.
3. the Site is appropriated from primarily residential use to planning purposes pursuant to Section 122 of the Local Government Act (LGA) 1972, and disposed of provided no objections are made.
4. the adopted footpath that runs through the Site is stopped up under Section 247 of the Town and Country Planning Act 1990 if planning consent is granted for the proposed development.
5. if the Site is appropriated as recommended that the Council will advertise the sale of the public open space as required by law
6. any objections to the appropriation and/or disposal be considered and determined by the Corporate Director of Delivery Services/Assistant Chief Executive in consultation with the Portfolio Holder.

## **SUPPORTING INFORMATION**

### **1.0 REASONS FOR RECOMMENDATIONS**

To facilitate the sale of land to the discount food operator, Lidl GB Ltd., to enable the Company to assemble a site for the development of a new supermarket and to generate a capital receipt.

### **2.0 OTHER OPTIONS CONSIDERED**

The land is currently inaccessible for development and comprises a wide grass verge fronting Arrowe Park Road at its junction with Ford Road which the Council maintains. In view of this, and the amount of the consideration on offer, no other options have been considered.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The discount food operator, Lidl GB Ltd., is in the process of assembling a site at the junction of Arrowe Park Road and Ford Road, Upton, located opposite the Sainsbury's superstore.
- 3.2 The Company has agreed the purchase of the Fire Station and the two semi-detached houses adjoining which were originally occupied by fire station staff. These are shown shaded red and blue respectively on the attached plan.
- 3.3 In order to complete the land assembly exercise, the Company wish to acquire the Council's land shown edged red which is currently inaccessible for development comprising a wide grass verge extending to 0.3 Ha (0.75 acres), though the land is classified as primarily residential in the Unitary Development Plan.
- 3.4 Following negotiations, a sale price of £820,000 has been agreed subject to planning consent and satisfactory ground and site surveys. Should terms be approved, the Council will enter into a contract with Lidl GB Ltd. conditional on planning consent.
- 3.5 The Council land has an adopted footpath running through it which will need to be stopped up. Further, as it is open to public access, the land would be classed as Public Open Space as defined in the Planning Acts and, as such, its disposal will have to be advertised in the local press in accordance with the Local Government Act 1972. Authority is sought to enable the Corporate Director of Delivery Services/Assistant Chief Executive in consultation with the Portfolio Holder to consider any objections and determine the disposal.
- 3.6 The land in Council ownership is subject to general third-party rights in favour of Magenta Living which were imposed as standard clauses when the stock transfer of Council housing was completed on 2005. The site adjoins former Council houses and all such sites retained in Council ownership which bordered land transferred was burdened with rights in favour of Magenta.
- 3.7 Due to the need to over-ride these rights, the land will be appropriated from primarily residential use to planning purposes pursuant to Section 122 of the LGA 1972. Appropriation occurs where the Council holds land for one particular purpose and makes a declaration that it is going to hold the land for a different purpose. This will

facilitate its disposal for the proposed use in accordance with the provisions of Section 233 of the Town and Country Planning Act 1990 which indicates that “where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for those purposes the authority may dispose of the land to such person, in such manner and subject to such conditions as appear to them to be expedient in order to secure the best use of that land”. This may give rise to objections as the intention to appropriate has to be advertised in the local press. Authority is sought therefore to enable the Corporate Director of Delivery Services/Assistant Chief Executive in consultation with the Portfolio Holder to consider any objections and determine the appropriation.

- 3.8 The successful appropriation of the land may give rise to a claim for compensation from Magenta Living but the likelihood is considered to be remote as Magenta own no developable land in the vicinity. In any case, it has been agreed with Lidl GB Ltd. that the Company will indemnify the Council against any such claim.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 The sale will generate a capital receipt of £820,000 plus fees.
- 4.2 The cost of maintaining the land will be saved.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 The Council is obliged to obtain the best price reasonably obtainable under s 123 of the Local Government Act 1972. The provisionally negotiated price reflects the current proposal which combines the site with the other non-Council owned sites and is considered to be well in excess of its value in isolation and is therefore considered to be best price.
- 5.2 The sale and appropriation will be advertised by Public Notice and any objections will be considered by the Corporate Director of Delivery Services/Assistant Chief Executive in consultation with the Portfolio Holder who will then have the authority to consider any objections and determine the disposal and appropriation.

#### **6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS**

- 6.1 There are no IT or staffing implications arising from the disposal of this land.
- 6.2 The approach from Lidl GB Ltd. has created value from a hitherto landlocked and inaccessible site of nil value.

#### **7.0 RELEVANT RISKS**

- 7.1 Failure to complete the deal will result in the potential loss of a windfall capital receipt of £820,000.
- 7.2 The successful appropriation of the land may give rise to a claim for compensation from Magenta Living but the likelihood is considered to be slight. In any case, it has been agreed with Lidl GB Ltd. that the Company will indemnify the Council against any such claim.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 The sale and appropriation of the site will be advertised by way of Public Notice as required under the provisions of the Local Government Act 1972.
- 8.2 The sale is subject to planning consent and the public will be consulted as part of that process.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 Has the potential impact of your proposal been reviewed with regard to equality?  
No because there is no relevance to equality.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

- 10.1 The legal transaction to sell the land of itself will have no environment or climate implications.

## **11.0 PLANNING IMPLICATIONS**

- 11.1 The site, which is a landscaped amenity buffer between housing, the fire station and the Upton by-pass, is designated as part of a Primarily Residential Area in the Council's Unitary Development Plan (UDP). The Council is currently completing a review of development options after public consultation in September 2018 on proposed allocations for housing, employment and mixed uses, including sites for potential further investigation in the Green Belt. The site's designation is unlikely to change in the emerging Local Plan, which will need to address the need for development up to 2035 before it can be adopted.
- 11.2 UDP Policy HS15 only permits small scale non-residential development that would not be: inappropriate to surrounding development, detrimental to the character of the area, and cause a nuisance in respect of noise, parking and deliveries. Any future proposal for retail development would need to be assessed against UDP Policies SH9 & SH10 and Policy CS29 in the Core Strategy Proposal Submission Draft (2012), which would implement the national sequential test for town centre uses. The protection to be given to existing trees and the impact on highway safety and traffic management issues in the locality would also need to be considered under the terms of UDP Policy GR7 and Policy TR9.

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## **APPENDICES**

Plan

## **BACKGROUND DOCUMENTS**

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>