

Date **05 May 2021**

REPORT TITLE:	WOODSIDE FERRY VILLAGE – RETAIL CHALETS
REPORT OF:	ASSISTANT DIRECTOR OF REGENERATION

REPORT SUMMARY

This report seeks approval to grant a lease of land located adjacent to Woodside Ferry terminal to accommodate 20 chalets for temporary/pop-up retail use.

The property is in the Birkenhead and Tranmere Ward and is not a key decision.

RECOMMENDATIONS

That the Assistant Chief Executive:

- (1) approves in principle the grant of a two-year lease, excluded from the Landlord and Tenant Act 1954, in accordance with the draft Heads of Terms attached to the report at Appendix A in respect of land adjacent to Woodside Ferry Terminal shown edged red on the plan attached to the report at Appendix B at a peppercorn rent to Woodside Area CIC to accommodate 20 temporary retail units, subject to advertisement of the proposal to dispose of the land (by way of short-term lease) as required by law and consideration of any representations made prior to a further final decision being made by the Assistant Chief Executive.
- (2) approves the grant of a non-exclusive licence for use of the land by Woodside Area CIC as a market during the period 1st-3rd May 2021 (3 days).

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 To enable an extension of the activities of Woodside Area Community Interest Company (Woodside Area CIC) at Woodside Ferry Village on land adjacent to Woodside Ferry Terminal, in order to stimulate footfall and provide activity that will contribute to the regeneration of Birkenhead's waterfront.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The request from Woodside Area CIC follows their bid through the Town Deal fund to extend their activities and deliver a retail offer on underutilised land adjacent to Woodside Ferry Village. No other approaches for this land have been received.
- 2.2 Other options would be to do nothing, or to promote the availability of the land as an opportunity for other organisations to consider. However, as Woodside Area CIC occupies the adjacent site at the Woodside Ferry Terminal and is the only organisation to have identified this opportunity, it is seen as an appropriate occupier of this site. Woodside Area CIC is reliant on Town Deal grant funding to develop this as a pilot scheme for an initial two-year period.

3.0 BACKGROUND INFORMATION

- 3.1 Wirral Chamber of Commerce has supported the recent re-modelling of the food and beverage offer within the Woodside Ferry Terminal. Woodside Area CIC was established by the Chamber of Commerce with the objectives to:
- Carry out activities which benefit the community,
 - Provide 'meanwhile' space with a view to regeneration in the Woodside area,
 - To benefit inhabitants of the woodside and surrounding area (including potential job creation, regeneration, support for projects and events that promote economic growth),
 - To support small business and 'start up' companies,
 - To promote a sustainable and environmentally friendly area to attract visitors, and;
 - To foster networks, collaborations and cluster activities between sectors, businesses, and the community.
- 3.2 Woodside Area CIC has recently identified the opportunity to expand their food and beverage offer at Woodside Ferry Village to include retail units located outside on land adjacent to the Ferry Terminal Building. The proposal is for Woodside Area CIC to locate in the area around 20 wooden chalet style units selling artisan products. Artisan produce is defined to be that which is:
- Made, grown or created within the premises of the seller;
 - small scale in production;
 - handcrafted using traditional methods; and
 - unique and made with creative input.

- 3.3 It is initially proposed that the chalets will be open on Thursday to Sunday increasing to seven days a week through the school holidays.
- 3.4 The chalets will be located on Council owned land so it has been provisionally agreed that Woodside Area CIC will occupy the land on a two-year lease at a peppercorn rent. The lease will be contracted out of the provisions of the Landlord and Tenant Act so will not provide the CIC with automatic rights to renew.
- 3.5 The Council's regeneration plans for Birkenhead include a new neighbourhood in the location with world class public spaces, a reconfigured gyratory and the opportunity for new housing and commercial development, all making the most of the unique location with unparalleled views of Liverpool. Recognising the time needed to bring these plans to fruition, the introduction of temporary uses to encourage footfall and animate the area in the short term is welcomed. The temporary nature of the proposed activity will contribute to the regeneration of the area and will also give both parties the opportunity to consider the success or otherwise of the extension to Woodside Area CIC's operations at Woodside.
- 3.6 The Council would normally seek a commercial rent for property lettings and in this instance the Council would be foregoing an estimated annual rent of £5,000, equating to £10,000 for the period of the lease. For leases under 7 years the Council is not required to obtain any specific consents for rents below market value, however where this could impact on the fair trade there may be implications for subsidy. Woodside CIC have agreed that any profit made will be ringfenced and re-invested in the public realm at Woodside.
- 3.7 The site is open to public access and is open space, albeit not land held under the Open Spaces Act 1906. In law the lease albeit only being for a 2-year term is treated as a disposal. Accordingly, a proposal to dispose of the land by way of a short-term lease will need to be advertised in the local press in accordance with the Local Government Act 1972. Agreement to disposal on the terms now proposed would be subject to further consideration of the outcome of the public advertisement period. To safeguard the site for public enjoyment the lease will include a provision to ensure that public access to and across the site is maintained.
- 3.8 Woodside Area CIC would like to commence their activity from 1st May 2021 to take advantage of the May bank holiday weekend. Whilst the arrangements are put in place to agree the 2-year lease, a licence to cover the activities for the weekend of 1st-3rd May has been entered into. The temporary use of the market during this Bank Holiday weekend would be permitted development being for a period of less than 14 days. It is also within the gift of the Council to permit the event to occur notwithstanding that it is operating within the Council's market charter area.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The Council is notionally foregoing a potential receipt as described in the report. However, any profit would be ringfenced and reinvested in enhancements to the public realm of the Woodside area. Following completion of the two-year period the rental clause will be revised should there be a desire to renew the lease.

- 4.2 Should a lease not be granted then the proposal will not be deliverable and the secured funding of £135,000 will have to be returned to Ministry of Housing, Communities and Local Government (MHCLG).

5.0 LEGAL IMPLICATIONS

- 5.1 The lease will be excluded from the provision of the Landlord and Tenant Act 1954 in order to prevent the tenant having any right to seek its renewal at the expiration of the tenancy.
- 5.2 The land to be subject to the lease is not held under the Open Spaces Act 1906 but the land is open space for the purpose of section 123(2A) of the Local Government Act 1972. This means that the proposal to lease the land will need to be advertised in a local paper for 2 consecutive weeks. If there are any representations made, they will need to be considered before any final decision is made on this proposal.
- 5.3 The siting of the chalets will require planning consent, an application for which has been submitted, ref APP/21/00145 and this will be separately determined.
- 5.4 As the proposal is likely to attract increased footfall Woodside CIC will be required to liaise with officers of Environmental Health to ensure that this extension of their operation into the adjacent space outside is managed in a covid safe way.
- 5.5 The proposed location for the retail chalets is within the area covered by the Birkenhead Market Charter and, as such, would require the consent of the beneficiary to the charter, currently that beneficiary is the Council. Woodside CIC are proposing that products sold are limited to those that are made or created by the sellers. This will ensure that the offer is different to that of Birkenhead Market which has a more varied offer. Further to this, sellers from the chalets will not be able to secure a long-term licence or pitch and will be able to trade for no more than one week at a time and limited to four times per year. The issue of the grant of a licence will be considered as a separate regulatory matter.
- 5.6 The waiver of rent is in effect a modest subsidy and will be subject to compliance with the post Brexit Subsidy Control rules in the UK-EU Trade and Co-operation Agreement (TCA) formerly Article 55 of the General Block Exemption Rule.
- 5.7 Article 55 has been replaced by the 6 Common Principles of the EU-UK Trade and Cooperation Agreement (TCA) which require the Council whenever the subsidy exceeds 325,000 Special Drawing Rights (£345,000) to:
- 1) identify an equity rationale e.g., social difficulties
 - 2) limit the subsidy to what is necessary and proportionate to achieve the objective
 - 3) demonstrate that the objective could not be achieved without the subsidy
 - 4) the subsidy should not normally compensate for the costs the recipient would have funded in the absence of a subsidy
 - 5) the subsidy is an appropriate way of achieving the social policy objective which cannot be achieved through other less distortive means
 - 6) the subsidy's positive contribution to achieving the social policy objective outweighs any negative effects on trade or investment

- 5.8 Woodside CIC have received £251,466 of subsidy in the last 3 years, well within the new 'de minimis' amount. The level of subsidy is well within the new "de minimis" amount of £345,000.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 There are no IT or staffing implications arising from this report.

7.0 RELEVANT RISKS

- 7.1 Consideration has been given to potential risks and, where possible, steps have been put in place to minimise risk.
- 7.2 The funding for this scheme has been secured via MHCLG's Town Deal Accelerator Grant. Failure to complete the lease will result in the loss of the funding as it will have to be return to MHCLG. This will make the scheme undeliverable.
- 7.3 Woodside CIC have already begun to promote the scheme. There is therefore a potential reputational risk to the Council should the lease not be agreed.
- 7.4 Should the scheme not go ahead the opportunity to bring about short-term regeneration to this area, delivered by the community interest company leading on such change, will have been lost.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Officers of the Council including Law and Governance, Assets Management including the manager of Birkenhead Market, Highways and Infrastructure, Regeneration and Place and Planning Services have been consulted in the preparation of this report.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 The potential impact has been reviewed with regard to equality and links to the existing EIA conducted for Wirral's Growth Plan. No changes were made to the EIA as a result of this report.

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments/equality-impact-assessments-2014-0>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The recommendation has limited implications on the environment and climate. The infrastructure proposed to be located on the site will be temporary in nature and made from natural materials (wood).

- 10.2 The location is well served by public transport being sited adjacent to Hamilton Square Station and the Woodside Ferry Terminal. It is also located adjacent to the Wirral Coastal Path. Visitors to the market will be encouraged to travel by sustainable means.
- 10.3 The content and/or recommendation contained within this report are expected to have no impact on emissions of greenhouse gasses.

REPORT AUTHOR: **Kate Pierce**
Economic Development Lead
Email: katepierce@wirral.gov.uk

APPENDICES

Appendix A Draft Heads of Terms

Appendix B Site plan – ‘Plan to show land adjacent to Woodside Ferry Village and proposed location of 20 temporary retail chalets’

BACKGROUND PAPERS

Registered title to the land affected.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Decision of Director of Regeneration & Place, ‘ <i>Towns Fund: Receipt of Accelerated Grant</i> ’	16 th October 2020