

3 August 2018.

Dear Councillor,

A meeting of the **CABINET** will be held in the **Council Chamber** at these offices on **MONDAY, 13 AUGUST 2018 at 4.00 p.m.**, when your attendance is requested.

Yours sincerely,

KATHRYN HALL

Chief Executive

A G E N D A

	Page No.
1. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
2. To receive apologies for absence.	
3. To confirm the Minutes of the meeting of the Committee held on 9 July 2018.	3 - 6
4. To consider any items that the Leader agrees to take as urgent business.	
5. Disposal Of Surplus Council Land At Imberhorne Lane Car Park	7 - 12
6. To consider whether to exclude the Press and Public from the meeting during consideration of the following items in accordance with Section 100A of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in paragraph 3 of Part 1 of Schedule 12A of the said Act.	
7. Disposal Of Surplus Council Land At Imberhorne Lane Car Park – Exempt Appendix 2	13 - 15
8. Asset Acquisition – Exempt	To Follow

To: **Members of the Cabinet** – Councillors: Ash-Edwards (Deputy Leader), Llewellyn-Burke, MacNaughton, Marsh, Thomas-Atkin, Wall (Leader) and Webster.

**Minutes of the Meeting of the Mid Sussex District Council Cabinet
held on 9 July 2018
from 4.00 p.m. to 4.44 p.m.**

Present: Councillors: Jonathan Ash-Edwards, Judy Llewellyn-Burke, Andrew MacNaughton, Gary Marsh, Garry Wall (Leader), Mandy Thomas-Atkin and Norman Webster.

Officers: Judy Holmes, Tom Clark, Peter Stuart, Simon Hughes, Kate Wilson, Terry Stanley, Alison Hammond and Hamish Evans.

1. DECLARATIONS OF INTEREST

None.

2. APOLOGIES

None.

3. MINUTES

The minutes of the meeting held on 4 June 2018 were agreed as a correct record and signed by the Leader.

4. URGENT BUSINESS

None.

5. BUDGET MANAGEMENT 2017/18 – PROGRESS REPORT APRIL TO MAY 2018.

Peter Stuart, the Head of Corporate Resources introduced the report which outlined the forecast revenue outturn position for 2018/19 at the end of May which was showing a projected net overspend of £12,000 against the original estimate, which relates to on-going pressures from 2017/18 which will be built into the 2019/20 budget. He noted that as it is early in the financial year it is only a very early indication of the year to come.

He highlighted the increase in Treasury Management returns and the increased funding for Disabled Facility Grants available – some £1.3m in the year.

The Cabinet Member for Community commented that he was supportive of the Disabled Facility Grants which are part of a wider project to help residents improve their lives.

The Cabinet Member for Performance and Finance was encouraged to see the budget was on track and that there was a robust project management system in place to cover the capital programme.

The Cabinet Member for Service Delivery queried whether the funding for the Disabled Facility Grants could all be spent in the year.

Tom Clark, Solicitor to the Council informed the Cabinet that on the Council expects to spend the money this year and that additional staff have been employed to help process the referrals and the Council is receiving support from West Sussex County Council to get referrals through to the team in a timely way.

The Leader then moved to the recommendations which were agreed unanimously.

RESOLVED

Cabinet recommended to Council for approval:

- (i) that £221,981 grant income relating to Flexible Homelessness Support Grant be transferred to Specific Reserve as detailed in paragraph 22;
- (ii) that £26,266 grant income relating to Preventing Homelessness Grant be transferred to Specific Reserve as detailed in paragraph 23;
- (iii) that £3,791 be transferred to Specific Reserve as detailed in paragraph 24;
- (iv) that £970 be transferred to Specific Reserve as detailed in paragraph 25;
- (v) that £34,051 be transferred to Specific Reserve as detailed in paragraph 26;
- (vi) that £19,353 be transferred to Specific Reserve as detailed in paragraph 27;
- (vii) the variations to the Capital Programme contained in paragraph 33 in accordance with the Council's Financial Procedure rule B4.

Cabinet noted:

- (viii) the remainder of the report.

6. PERFORMANCE OUTTURN 2017/18.

Kate Wilson, the Business Unit Leader for Community Services, Policy and Performance introduced the report which set out the Council's outturn performance for the year 2017/18. It provided the Cabinet with an analysis of performance over the past year using the suite of performance indicators previously agreed by the Scrutiny Committee for Leader, Resources and Economic Growth. It also set out an end of year assessment of progress with the flagship activities for 2017/18, together with the first progress report for the new flagships for 2018/19.

Performance across the Council had been good overall with 67% of targets being met or exceeded and a further 21% close to reaching target despite sustained levels of demand in many service areas. For the small number of exceptions where performance was 10% or more off target, corrective measures were in place to address the issues.

The Leader noted that the Council was operating in a challenging environment however it was still performing well. Where the Council was underperforming there were processes in place to improve the performance.

The Cabinet Member for Community noted that through responsible fiscal behaviour the Council has been able to aid worthwhile schemes across the local community. He informed Cabinet that the Council had contributed £655,000 to not-for-profit organisations within the District. He added that £300,000 had been awarded as Facility Grants through the collection of S106 agreements and he commended the wellbeing service for offering appointments of up to 45 minutes in GP surgeries.

The Deputy Leader and Cabinet Member for Economic Growth observed that the performance outturn is very positive and in particular relating to the Councils flagship priorities. He drew attention to the high level of performance relating to grants awarded to the voluntary sector and the sheer breadth and scale of the work done by the organisations.

The Cabinet Member for Finance and Performance informed the Cabinet that a new Business Unit Leader had been employed for the Revenues and Benefits department to lead the service through and beyond the transition period.

The Cabinet Member for Housing and Planning noted his disappointment that only 98 affordable homes had been built out of the targeted 200. He believed that this was unfortunately out of the Council's control as developers had chosen only to build the 98 units. He informed the Cabinet that the Council had granted planning permission on 1265 affordable housing units however they had not been started by developers.

The Cabinet Member for Customer Services noted that the Customer Services department had exceeded targets and was performing well. She also thanked the website team for their work in launching the new website which had received many compliments internally and externally. She informed the Cabinet that it had been her pleasure to award several 'Make a Difference' awards to Customer Services Officers.

The Leader thanked Officers for the report and said that the Council had learnt from the past and had grown to be a fiscally responsible authority but one that also funds worthwhile community projects. The Leader then moved to the recommendations which were agreed unanimously.

RESOLVED

The Cabinet;

- (i) Noted the Council's performance and progress with flagship activities in 2017/18 and identify any areas where it requires further reporting or information;
- (ii) Noted the monitoring arrangements and initial progress with the Council's flagship activities for 2018/19.

7. THE PROVISION OF TEMPORARY ACCOMMODATION FOR MSDC.

Judy Holmes, the Assistant Chief Executive introduced the report which set out a proposal to purchase 20 properties and lease 10 properties to place

homeless families to minimise the Council's reliance on bed and breakfast and guest house accommodation. Appendix 1 provides the contextual background. The funding of £4m for this proposal was agreed by Cabinet at its meeting on the 8th May 2018.

The Cabinet Member for Housing and Planning noted that the provision is possible thanks to the sound management of the Council's finances. He also said that they are not expecting to spend the allocation all at once. The case for this proposal was not just a financial one but a moral one as well.

The Deputy Leader and Cabinet Member for Economic Growth praised the report as it is an important scheme to assist those who find themselves in temporary accommodation. The provision would allow for continuity in people's lives especially regarding schools and jobs.

The Cabinet Member for Community thanked the Economic Development team for their hard work and the launch of the Economic Development Strategy, as the Council needed to encourage more jobs as well as houses.

The Cabinet Member for Customer Services noted that this provision would enable children's support networks to be sustained.

The Cabinet Member for Finance and Performance observed, that it has the ability to spend £4m on such a worthwhile project was a testament to the Council's prudent financial performance.

The Cabinet Member for Service Delivery noted that it made both financial and moral sense to proceed with the project.

The Leader of the Council stated that projects like this make him proud to be the Leader of this Council as they are safeguarding the most vulnerable in the community. He noted that MSDC was a local authority setting a good example. The Leader then moved to the recommendations which were agreed unanimously.

RESOLVED

That Cabinet agreed;

- (i) that the Council acquires a portfolio of up to 20 units and leases up to 10 units to provide temporary accommodation within Mid Sussex District, using the reserves of £4m approved by Cabinet on the 8th May 2018.

Chairman.

5. DISPOSAL OF SURPLUS COUNCIL LAND AT IMBERHORNE LANE CAR PARK

REPORT OF: Head of Corporate Resources
Contact Officer: Thuso Selelo, Business Unit Leader, Corporate Estates & Facilities
Email: thuso.selelo@midsussex.gov.uk Tel: 01444 477425
Wards Affected: All
Key Decision: Yes
Report to: Cabinet
13th August 2018

Purpose of Report

1. The purpose of this report is to inform Cabinet of the outcome of the Head of Corporate Resources' investigation into the development potential of a parcel of Council land at Imberhorne Lane car park, East Grinstead, shown edged in red on the plan at Appendix I to this report ("the Site"), which is currently used as a public car park.
2. It sets out proposals for a residential development of the Site, asks Cabinet to declare the Site surplus to existing operational requirements and needs, and seeks authority for the Head of Corporate Resources to dispose of the Site to Bidder A on the terms set out in the exempt Appendix 2 to this report in order to generate a capital receipt for the Council.

Recommendation

3. *Cabinet is recommended to:*

- (a) Declare the parcel of Council land at Imberhorne Lane, East Grinstead, shown edged in red on the plan at Appendix I to this report ("the Site") surplus to existing operational requirements and needs;*
- (b) Approve the disposal of the Site to Bidder A for residential development, subject to the grant of satisfactory planning permission, in accordance with the terms set out in the Exempt Appendix 2; and*
- (c) Authorise the Head of Corporate Resources and the Head of Regulatory Services to enter into a contract, conditional upon the grant of satisfactory full planning permission for residential development of forty per cent affordable homes and sixty per cent commercial homes, for the disposal of the Council's freehold interest in the Site to Bidder A on the main terms and conditions set out in the Exempt Appendix 2; and on such other terms and conditions as the Head of Regulatory Services recommends to protect the Council's position.*

Background

4. The Council's owns the Site, which has been used as an out-of-town public car park, with 68 long stay parking spaces, and no disabled and/or parent and toddlers parking spaces.
5. On 27th March 2018 the Cabinet Member for Resources and Economic Growth considered a report on the potential disposal of potentially surplus Council land, which proposed that various sites mentioned in the report should be investigated, to establish their current use and importance to the Council with a view to identifying those that are surplus to current operational needs and have development potential. The objective

being to bring such sites forward for development either by the Council or others. The Cabinet Member was recommended to:

- (a) agree, in principle, to the disposal of the various sites listed in the Appendix of the report that are potentially surplus to existing operational requirements and needs and have development potential; and
 - (b) authorise the Head of Corporate Resources to investigate the status of each parcel of land and to test the market to allow officers to bring forward and report back to Cabinet or Cabinet Member for Resources and Economic Growth, site-specific proposals for the disposal and/or development of those parcels of land that are considered surplus to existing operational requirements and needs and have development potential.
6. The Cabinet Member for Resources and Economic Growth approved the recommendation.
 7. Moreover, a report to Scrutiny Committee for Customer Services and Service Delivery (11 October 2017) informed Members that during 2016/17, the site was part of a programme of works to resurface and reline various car parks around the District at a total cost of £100,136, which was funded by both capital and revenue budgets. A total of £19,620 has been spent on reactive and preventative maintenance on this car park since 2014, and if it is to be retained, it will require another £30,000 to bring it into a good state of repair.
 8. A review of assets has demonstrated that this Site, in this location, is an underused site that is no longer required for the operational functions of the Council and is, in effect, surplus to the Council and with development potential as a brownfield development site. The site is flat and surrounded by residential accommodation along Imberhorne Lane, and extends to an area of 0.18 ha (0.44 acres).
 9. The Site does not generate income, as it is not regulated by pay and display charges. It is rarely monitored by the Parking Services Team due to the complexities of enforcing a stay of a vehicle over the 23 hour parking period the site allows. In the 2017 – 2018 financial year, thirteen Penalty Charge Notices were issued in the belief vehicles had exceeded the parking period, which resulted in the recovery of only £125.00. Several of the vehicles were not registered with the DVLA as they had been transferred to the motor trade (meaning the owner could not be traced), which suggests a private dealer was using the car park for storage.
 10. The Site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA) as a site considered suitable for high-density development. It is next to large commercial units and there are many examples in the locality of flatted developments. It would make efficient use of site in a fairly sustainable location and is allocated in the East Grinstead Neighbourhood Plan as suitable for residential development. The latter noted that if the Site was to be redeveloped for residential housing, a suitable alternative car park should be identified.
 11. Officers are investigating re-provision, in an alternative location, of a regulated and monitored car park facility on Imberhorne Lane recreation ground, in order to alleviate on-street parking during football games.

Proposed Disposal

12. Officers have explored a number of disposal options in order to expose the Site to the best market and suitable purchasers. An agent was appointed to assist the Council with

the marketing process and the negotiation of suitable terms with potential purchasers, to ensure that the disposal complies with the Council's statutory duty to secure the best consideration that can be reasonably obtained.

13. The proposed disposal will be subject to Bidder A obtaining satisfactory planning permission for a development of 30 residential units comprising 12 affordable homes and 18 private commercial market homes, (subject to planning).

Policy Context

14. In 2016/17, West Sussex County Council (WSCC) undertook a review of the existing waiting restrictions in East Grinstead and put forward proposals to try and improve road safety, reduce congestion and provide additional parking spaces where possible. These proposals have now been approved and the associated works to introduce the changes are complete. The Site is therefore not considered to fall within any Controlled Parking Zones (CPZ) due to its distance from the town centre; and there are no plans to make any further extensions to the Residents' Parking Scheme (RPS).
15. Local authorities like other public bodies are encouraged by the Government to keep their land holdings under review to ensure that it is not underutilised and it is Government policy that local authorities and other public bodies should dispose of surplus land wherever possible for development including for the provision of new homes.
16. Making the land available in this way directly assists the Council in its ambition to bring forward housing in the District. Delivering affordable homes in the District feeds into the Council's policy objectives of better lives in the District.
17. Officers have taken account of the pressing need to increase the supply of affordable housing within the district, and specifically, within the area of East Grinstead. Housing Services has advised that there are currently 1,382 households on the housing register for Mid Sussex and 265 of those households have indicated a preference to be housed in East Grinstead. The need is broken down into 115 needing one bed homes, 122 needing 2 bed homes, 23 needing 3 bed homes and 5 needing 4 bed homes.
18. On this basis therefore, Cabinet is asked to endorse the approach that this site should contribute a greater proportion of affordable housing than the Council's policy (at 30%) would otherwise provide. This translates into three extra units on this site.

Powers and Legal Advice

19. Local authorities are given powers under Section 123 of the Local Government Act 1972 Act (the 1972 Act) to dispose of land in any manner they wish, including sale of their freehold interest, granting a lease or assigning any unexpired term on a lease, and the granting of easements. The only constraint is that a disposal must be for the best consideration reasonably obtainable (except in the case of short tenancies of less than 7 years), unless the Secretary of State consents to the disposal.
20. Paragraph 6 of Circular 06/03 Local Government Act 1972 General Disposal Consent (England) 2003 confirms that it is Government policy that local authorities and other public bodies should dispose of surplus land wherever possible. Generally it is expected that land should be sold for the best consideration reasonably obtainable. However, it is recognised that there may be circumstances where an authority considers it appropriate to dispose of land at an undervalue. Authorities should clearly not divest themselves of valuable public assets unless they are satisfied that the circumstances warrant such

action. The Consent has been issued to give local authorities autonomy to carry out their statutory duties and functions, and to fulfil such other objectives as they consider to be necessary or desirable. However, when disposing of land at an undervalue, authorities must remain aware of the need to fulfil their fiduciary duty in a way which is accountable to local people. In this regards the courts have held that the councillors have the same responsibilities and duty of care as trustees.

21. The Consent effectively removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land, where the authority considers it will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area and the difference between the unrestricted value of the interest to be disposed of and the consideration accepted ("the undervalue") is £2m or less.
22. In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue.
23. The provision of 40% of affordable homes within the proposed development scheme exceeds the local planning authority's requirement for 30% affordable homes and while the creation of affordable homes stands to be disregarded for the purposes of determining the commercial and monetary value of the Site, the provision of 40% affordable homes effectively unlocks the Site for housing development as a whole line with Central Government Policy.
24. It has been necessary to undertake a valuation exercise to establish the impact on the value of the Site of imposing a condition that the development comprises 40% affordable homes against a valuation of the Site for a policy compliant development. The provision of affordable homes meets the first requirement of the General Disposal Consent and therefore, if the difference between the market value of the Site for a policy compliant development and the proposed scheme is less than £2m, the Council can rely on the General Consent and sell the land at the price stated in the Exempt Appendix 2 to this report. This appendix sets out the offers for the land for both schemes and it can be clearly seen that the difference in values is below that £2m threshold.

Other Options Considered

25. The alternatives are to:
 - (a) Do nothing and retain the site for their existing use, whilst bearing the cost of maintenance and the liability that arises with routine maintenance and security. The Council would forgo an opportunity to generate a capital receipt that could be invested in the delivery of services or income generating assets that could be used to deliver services.
 - (b) Consider retaining the site and developing for the delivery of Council services. No such use has been identified.

Financial Implications

26. The disposal will generate a capital receipt for the Council and reduce capital and revenue spend on the car park maintenance.
27. The disposal will result in the loss of revenue income from the car wash operator at £6,000 p.a., mitigated by a saving on the non-domestic rates liability of £5,510 p.a.

28. The costs associated with marketing, legal and other costs would need to be met from existing budgets but ultimately recovered from the capital receipt from site disposal, including an agents' fee of 2% of the sale price.

Risk Management Implications

29. The risk management implications of this report are detailed elsewhere in this report and in the Potential Disposal of Potentially Surplus Council Land report to the report to the Cabinet Member for Resources and Economic Development considered on 27th March 2018.

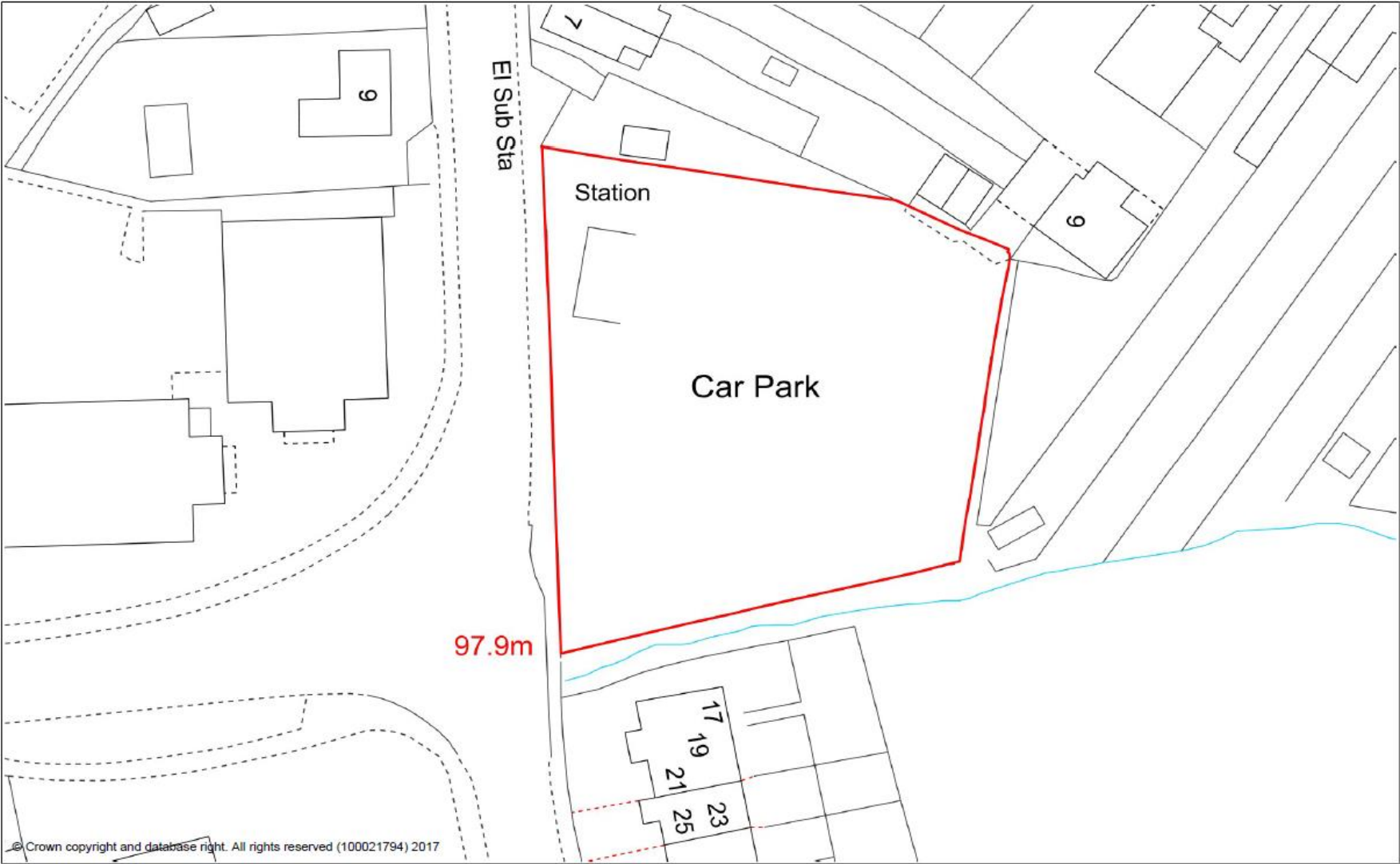
Equalities statement

30. In determining this proposal the Council is required to have regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation. It is considered that the decision to dispose of the Site will not have an adverse impact on any of the protected characteristics. However, any planning application would consider these and other factors in the usual way.

Background Papers

31. Parking Services Annual Review 2016/17, Report to Scrutiny Committee for Customer Services and Service Delivery, 11 October 2017
32. Potential Disposal of Potentially Surplus Council Land, Report to Cabinet Member for Resources and Economic Growth, 19 March 2018

Appendix I - Location Plan



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Map Centre (Easting:Northing): 537627:139276

Scale: 1:500