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## **NOTICE OF EXECUTIVE DECISION TO BE MADE**

The following Executive Decisions are due to be made by the CABINET MEMBER FOR HEALTH AND WELLBEING on WEDNESDAY, 12 JUNE 2019.

1. Hasland Toll Bar Public Conveniences, Hasland (G260L) (Pages 3 - 14)

Reports relating to the decision(s) to be taken are attached to this notice, unless they contain confidential or exempt information. A meeting will not necessarily take place when the decision is made. Please contact Democratic Services for more information.

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## **FOR PUBLICATION**

### **Hasland Toll Bar Public Conveniences, Hasland (G260L)**

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Meeting: Cabinet Member for Health and Wellbeing

Date: 12 June, 2019

Cabinet portfolio: Cabinet Member for Health and Wellbeing

Report by: Kier and Environmental Services

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#### **For publication**

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#### **1.0 Purpose of report**

- 1.1 To seek Cabinet Member approval to appropriate the land shown on the location plan in Appendix 1 of this report from its present holding purpose to planning purposes in accordance with Section 122 of the Local Government Act 1972.

#### **2. Recommendations**

- 2.1 That the Cabinet Member determines whether the land shown at Appendix 1 which was vested in CBC for road improvement can be appropriated for planning purposes as it is no longer required for the former purpose.

- 2.2 Subject to that determination:
- 2.3 That the Cabinet Member indicates an intention to appropriate the land shown at Appendix 1 pursuant to Section 122 of the Local Government Act 1972.
- 2.4 It is recommended Cabinet Member for Health and Wellbeing authorises consultation on the intention to appropriate the public conveniences at Toll Bar, Hasland on the terms set out in this report in accordance with Section 122 of the Local Government Act 1972.
- 2.5 That a further report be prepared and that the Cabinet Member considers any representations received and makes their final decision on whether or not to appropriate the land. In the absence of any unwithdrawn representations, the final decision to be delegated to the Local Government and Regulatory Law Manager.

### 3 **Report details**

#### Site Location and Description

- 3.1 The site is approximately 2 miles from Chesterfield Town Centre, with good access onto the A617 leading to J29 of the M1 and the A61, the main arterial route through Chesterfield to Sheffield in the North and Derby in the South.
- 3.2 The property has a total site area of approximately 28 square metres ( 301 square feet), comprising male and female public conveniences. This is a small building with white rendered elevations and a flat roof, fronting onto B6039 Hasland Road at the edge of Eastwood Park. It is shown edged red on the attached location plan (Appendix 1).
- 3.3 The site is located in Hasland District Centre, close to shops and other amenities. It borders the Park and residential properties to the East.

- 3.4 Approximately 2 years ago, Eastwood Park received grant funding to upgrade its facilities, including the wc's which were refurbished in the main pavilion. About the same time, the wc's fronting Hasland Road were closed to the public and have remained disused ever since. The land on which the disused wc's sits was acquired by the Council in 1919 for a road improvement. The roundabout to the front of the wc's may have been part of that initial scheme.
- 3.5 The appropriation of land is an internal process whereby a Council transfers the allocation of land from one purpose to another.
- 3.6 The purpose of this report therefore is to obtain a resolution to appropriate the land from its former use to planning purposes, specifically to facilitate re-use of the disused building.
- 3.7 The Council approved a report in August 2018 which recommended disposal of redundant wc facilities where they could be repurposed. Appropriation is required in order to take the wc facilities out of the original purpose for which it was acquired i.e road improvement, to enable them to be put towards another use in the future. For example, previous interest has been expressed by a member of the public in acquiring the wc's as a retail unit for a picture framer's business.
- 3.8 The statutory power to appropriate is conferred under Section 122 of the Local Government Act 1972. This gives statutory powers to a local authority to appropriate land for any purpose for which the authority are authorised to acquire land by agreement. The appropriation of land refers to a process whereby a local authority alters the purpose for holding that land, provided that land is no longer required for its original purpose. The effect of appropriation would be to free the former public conveniences from their original purpose and

now that they are disused, to enable them to be used for alternative purposes in the future, subject to planning.

- 3.9 Section 237 of the Town and Country Planning Act 1990 provides that where a local authority has appropriated land for planning purposes, the development of the property may override any third party rights enjoyed over the property, provided the regeneration of the property is done in accordance with planning permission. However, statutory compensation may be payable if appropriate.
- 3.10 The relevant powers under which the Council can appropriate land for planning purposes are contained under Section 226(1) and Section 227 of the Town and Country Planning Act 1990 and can be applied when either:
- (a) The authority considers that the appropriation will facilitate the carrying out or development, re-development or improvement on or in relation to the land; or
  - (b) The land is required for a purpose which it is necessary to achieve in the interests of proper planning in the area.
  - (c) In this report, appropriation is considered under Section 226(1) (a) above.
- 3.11 A local authority must not exercise the power under paragraph (1) (a) of Section 226 unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objectives:
- (a) the promotion of economic wellbeing in the area
  - (b) The promotion or improvement of the social wellbeing of their area
  - (c) The promotion or improvement of the environmental wellbeing of their area

3.12 Following the proper appropriation of the property, a sale can proceed subject to the grant of planning consent over an alternative use proposed.

#### 4.0 Planning Background

4.1 The current work on the Local Plan sets out the planning position in detail, concluding that the tests set out in Local Plan policy CS9 can be met and the site is therefore appropriate for re-use.

4.2 The National Planning Policy Framework (NPPF) 2012 provides the national policy context. Planning Policy for Chesterfield is set out in the Chesterfield Local Plan: Core Strategy (2013) and saved policies from the Replacement Chesterfield Borough Local Plan (2006) and in a range of Supplementary Planning Documents.

4.3 The Forward Planning team are currently preparing a new Local Plan that will replace the above documents. This will provide an update of the overall strategy for the borough and new site allocations looking ahead to 2036.

4.4 Alternative wc provision is provided in Eastwood Park pavilion and the Tollbar wc facilities have been closed for two years. They are no longer required for their original purpose.

4.5 The tests set out in policy CS9 can therefore be met and the site is appropriate for redevelopment or re-use for other uses.

4.6 Policy CS18 Design, comments that proposals should respect the character and form of the site by virtue of its appearance and architectural style and have an acceptable impact on neighbour amenity.

4.7 Policy CS19 Historic Environment protects heritages assets which must preserve or enhance the historic environment

wherever possible. This will be an important consideration with regard to the setting of the wc block adjacent the Listed Park.

- 4.8 As part of the consultation process, Sport England were approached about the potential loss of the wc facilities in November 2017. Sport England confirmed they would not object to the loss of the closed wc facilities given the replacement toilets in Eastwood Park pavilion.
- 4.9 **Alternative Options and Reason for Rejection**  
The alternative option would be to retain the wc block and to consider re-opening it. This is likely to incur extra costs for the Council in terms of repairs, redecoration and utilities. There are already replacement wc facilities in Eastwood Park pavilion. The wc facilities were recommended for disposal in August 2018. Therefore the option of retention is not recommended.
- 5.0 **Financial Implications ( Capital and Revenue)**
- 5.1 The appropriation of the property will enable the property to be disposed of and developed more quickly, which will benefit the Council's Capital Programme. The sale proceeds of this asset could enable funding of the demolition of other derelict wc facilities in Parks such as Somersall Park, where the wc block has been closed for 9 years. It is noted the power supply to the fair is located in these toilets, so a new pillar and supply would need to be installed. The cost of this is estimated at approximately £8000. The net capital receipt from this sale is likely to be small therefore, unless the new owner could be persuaded to allow access to the electrical pillar in return for a payment to be made at the times of the fair. This may require a sub-meter to be fitted, which would be a cheaper option than a new pillar, but require administration of payments to the new owner as and when needed. It might be easier in the long term to ensure the supplies are separate. Appropriation would enable the building to be repurposed and improve the local environment. This was previously approved by the Council in

August 2018. The site provides no rental income for the Council because of its condition. There will be ongoing maintenance liabilities for the Council if the property is retained.

5.2 The Council is currently not covered should the appropriation be challenged by Judicial Review and the appropriate insurance cover should be considered.

## 6.0 Legal Implications

6.1 Section 122 of the Local Government Act 1972 authorises the Council to appropriate any land which belongs to the Council to another use/purpose which is no longer required for the purpose for which it is held immediately before the appropriation. However, the appropriation is subject to the rights of other persons in, over or in respect of the land concerned. Where the land concerned is currently held for public open space, notice of the proposed appropriation need to be advertised in two consecutive editions of a local newspaper for comments from the public to be obtained and considered. Section 237 of the Town and Country Planning Act 1990 prevents any third party rights in land acquired or appropriated by the Council for planning purposes (subject to payment of compensation) from prohibiting/stopping any development of that land for which planning permission is in place.

6.2 The wc block was acquired by the Council in 1919 for road improvement purposes originally . It is understood the sale of part of this site is not affected by restrictive covenants relating to the Park.

6.3 As this was a wc block associated with the open space here, it will need to be advertised in the local press and any comments considered. This can run concurrently with the appropriation process.

We do not consider the following to have any implications on sale:

- Communications
- Human resources/people management
- Information assurance and data protection
- Equality, diversity and human rights

The property is in poor condition, and the wc's have been closed to the public for 2 years.

## 6.5 Risk Management

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Council does not proceed with sale.	H	L	Property will be properly marketed to obtain best value and regeneration.	L	L
Property left in existing use.	L	L	Little chance of re-use because of condition. To be advertised for two consecutive weeks along with advert for open space and consider any comments.	L	L

## 7.0 Alternative options and reasons for rejection

7.1 Alternative options were fully explored in the previous report to Cabinet dated August 2018 and rejected in favour of sale.

## **8.0 Recommendations**

- 8.1** That the Cabinet Member determines whether the land shown at Appendix 1 which was vested in CBC for road improvement can be appropriated for planning purposes as it is no longer required for the former purpose.
- 8.2 Subject to that determination:
- 8.3** That the Cabinet Member indicates an intention to appropriate the land shown at Appendix 1 pursuant to Section 122 of the Local Government Act 1972.
- 8.4** It is recommended Cabinet Member for Health and Wellbeing authorises consultation on the intention to appropriate the public conveniences at Toll Bar, Hasland on the terms set out in this report in accordance with Section 122 of the Local Government Act 1972.
- 8.5** That a further report be prepared and that the Cabinet Member considers any representations received and makes their final decision on whether or not to appropriate the land. In the absence of any unwithdrawn representations, the final decision to be delegated to the Local Government and Regulatory Law Manager.

## **9.0 Reasons for recommendations**

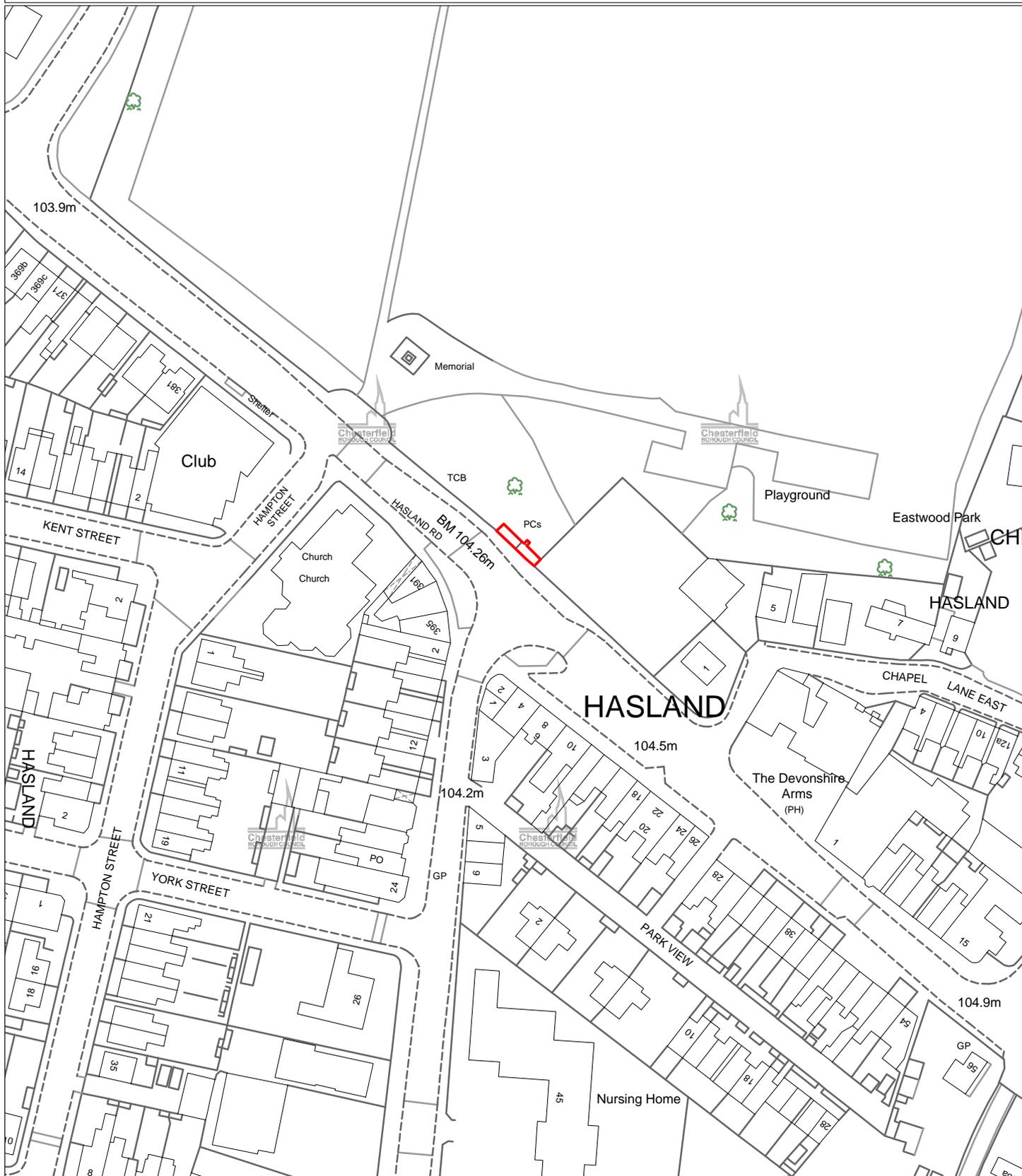
- 9.1** To secure re-use of the property and a capital receipt for the Council in line with the previous Cabinet approval.

## Decision information

<b>Non-Key decision number</b>	139
<b>Wards affected</b>	<b>St Leonard's</b>
<b>Links to Council Plan priorities</b>	Improve the quality of life for local people. To provide value-for-money services.

## Document information

<b>Report author</b>	<b>Contact number/email</b>
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<b>Background documents</b> These are unpublished works which have been relied on to a material extent when the report was prepared.	
<i>This must be made available to the public for up to 4 years.</i>	
<b>Appendices to the report</b>	
Appendix 1	Site Plan



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Scale 1:1250 Date Plotted 3/11/2016

Plot centred at 439620 369495

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