

DECISION ITEM



REPORT OF		MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	OPERATIONAL MANAGEMENT COMMITTEE		15 NOVEMBER 2016	5
DISPOSAL OF KIRKHAM CAR PARKS TO KIRKHAM TOWN COUNCIL				

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

Fylde Council owns three car parks in Kirkham. Mill Street car park is the main town centre car park, while Eagles Court car park and Orders Lane car park are each smaller and located on the edge of the town centre. Parking is provided free of charge in order to support town centre retailers.

Kirkham Town Council has requested that ownership of the car parks be transferred to them so that they can be managed more locally and continue to operate for the benefit of Kirkham residents and retailers. A transfer would reduce the cost to Fylde council of managing and maintaining the car parks from St. Annes.

RECOMMENDATION

It is recommended that the freehold interests in Mill Street, Eagles Court and Orders Lane car parks be transferred to Kirkham Council at no cost, subject to covenants restricting the use of each to free car parks and recycling centres. The transfers will also be subject to clawback provisions should any part of the site be commercially developed in the future.

SUMMARY OF PREVIOUS DECISIONS

At its meeting on the 20th July 2005 the Executive Committee considered a detailed report on a request from Kirkham Town Council to take over the management and control of Mill Street car park, Kirkham. The Committee resolved 'not to introduce charges on Mill Street car park and to authorise officers to negotiate with representatives of Kirkham Town Council about the future of Mill Street car park and that a report be brought to a future meeting of the Executive Committee'.

In February 2006 Cabinet considered a report advising members on progress with negotiations with Kirkham Town Council over the future of Mill Street car park and accepted a recommendation that members do not agree to the transfer of the asset to a trust.

In November 2008, in a report entitled 'Transfer of Assets to Parish Councils' cabinet considered, among other matters, the possible transfer of assets including Mill Street car park to Kirkham Town Council. It resolved that officers identify the more detailed operational, legal and financial implications of the transfer of such sites to the relevant town or parish council at nil or nominal consideration and report to a future meeting for consideration. As the focus of the transfer was on open spaces, Mill Street car park was subsequently removed from the schedule.

CORPORATE PRIORITIES	
Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	√
Fylde continues to be one of the most desirable places to live (Great Place to Live)	
Promoting Fylde as a great destination to visit (Great Place to Visit)	

REPORT

BACKGROUND

1. Fylde Council is the owner of three car parks in Kirkham:
 - i. **Mill Street** is the main car park for the town centre shopping area and provides free parking in order to support the local retailers. The property is a tarmac surfaced free car park comprising two main parking areas at different levels having a total site area of 0.6 hectares (1.5 acres). It is marked for 130 parking spaces plus 8 disabled spaces. 18 of the spaces are marked as reserved for the community centre. As part of the original development agreement, Santander and Coupe Bradbury Solicitors have the exclusive right to use a total of 8 parking spaces;
 - ii. **Eagles Court** car park is situated a short distance to the east of Mill Street car park in an area of mixed commercial and residential uses. The property comprises an irregularly shaped site, extending to around 450 square metres (540 square yards) which is partly tarmac surfaced and marked for 15 parking spaces; and
 - iii. **Orders Lane** car park is situated a short distance to the south-west of the shopping district. It also comprises an irregularly shaped site, extending to around 500 square metres (600 square yards). It has 15 marked, tarmac surfaced, parking bays. Four of these are used in connection with an affordable housing development which has taken place on adjacent land. There are a further two disabled bays. The site includes a utility substation to the rear.

THE PROPOSAL

2. Kirkham Town Council has formally requested that ownership of the three car parks be transferred to them, because the Town Council feels 'that along with their Leisure Facilities, Parks and Open Spaces the addition of the car parks would allow the Town to be more autonomous. The transfer would also reduce Fylde Borough Council's maintenance and management costs'.
3. Fylde Council has supported the principle of the transfer of assets where they can be shown to be managed more effectively for the community on a local basis.
4. Following transfer, Kirkham Town Council will become responsible for all costs associated with ownership. Cost savings to Fylde Council would include the annual business rates. Other savings would be achieved from insurance and maintenance costs. These costs vary year to year though in 2016/17 the budget for rates, environmental charges and maintenance is £12,368. In addition it is anticipated that highway drainage/rainwater run-off charges will be applied to Mill Street car park in the near future and the newly published 2017 rating list shows an increase in the rateable value of Mill Street car park from £8,000 to £13,750.
5. The car parks have the potential for generating income by introducing parking charges. Fylde Council has taken the decision not to charge in order to support local businesses. Kirkham Town

Council is a strong supporter of this policy and there is considered to be little likelihood that charges will be introduced following a transfer. However, it is intended to put in place a covenant restricting use of the land to free parking.

6. Valuations of the three car parks are attached to this report. These reports indicate that each of the car parks has a value for its existing use and therefore the transfers represent a sale at below market value. There is little potential to enhance this value by obtaining planning permission for development due to services under Orders Lane car park and restrictive covenants limiting use of Mill Street to parking. It is also unlikely that either the borough or the town council would wish to see the sites developed because of the adverse impact on the town centre and local community. It is, however, recommended that the disposals should be the subject of 'clawback' provisions in the unlikely event that they are developed commercially in the future.

LEGAL AND POLICY CONSIDERATIONS

7. These transfers are subject to the council's Land Transaction Procedure Rules which are included in the constitution as Appendix 3, Part D. These require the sale of property assets such as those referred to in this report to be exposed to the general market unless there are special circumstances. In this case the Town Council is considered to be a 'partner', who would occupy the land for a purpose which would further the Council's policies or objectives, which constitutes special circumstances for the purpose of the procedure rules. In accordance with these rules a disposal plan and valuations of each car park are attached to this report.
8. Section 123 (2) of the Local Government Act 1972 provides:

"Except with the consent of the Secretary of State a council shall not dispose of land under this section otherwise than by way of a short tenancy for a consideration less than the best that can reasonably be obtained."
9. In the opinion of the council's Principal Estates Surveyor the nil consideration in this transaction represents a sale at below market value.
10. The Secretary of State has given a general consent to councils to dispose of land at a consideration which is less than the best which can reasonably be obtained, so long as the council considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of the promotion of improvement of economic, social or environmental well-being in respect of the whole or any part of its area, or of all or any persons resident or present in its area.
11. Because of the location of the car parks, the town council is considered to be better placed than Fylde council to ensure they continue to provide a useful local facility in the future. This can legitimately be regarded as achieving the promotion or achievement of the economic and social well-being of the council's area and persons resident or present in it.
12. Each party will bear its own legal costs.

IMPLICATIONS	
Finance	This report proposes the transfer of 3 car parks to Kirkham Town Council. If the transfer is agreed there would be annual revenue savings to Fylde Council, including the business rates and maintenance costs, which equate to approximately £12k per annum but are subject to considerable variation from year to year. If approved these savings will be reflected in future updates of the Medium Term Financial Strategy.
Legal	A number of legal issues are raised in paragraphs 7-12 of the report. In addition, the conveyance of titles will involve some legal work.
Community Safety	No implications
Human Rights and Equalities	No implications
Sustainability and Environmental Impact	No implications
Health & Safety and Risk Management	No implications

LEAD AUTHOR	TEL	DATE	DOC ID
Gary Sams – Principal Estates Surveyor	01253 658462	5 October 2016	

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
Cabinet agenda & minutes	20 November 2008	CMIS > Meetings Calendar
Cabinet agenda & minutes	15 February 2006	CMIS > Meetings Calendar

Attached documents

1. Valuation reports of Mill Street, Eagles Court and Orders Lane car parks
2. Plans showing the boundaries of the car parks edged black.
3. Disposal plan