

CONFIDENTIAL

CYNGOR SIR POWYS COUNTY COUNCIL

PORTFOLIO HOLDER DELEGATED DECISION

by

**COUNTY COUNCILLOR CLLR JAKE BERRIMAN, CABINET MEMBER
FOR A CONNECTED POWYS**

June 2023

REPORT AUTHOR: Property Surveyor

**REPORT TITLE: Freehold Community Asset Transfer of the Land and
Oak Tree, East Street, Rhayader**

REPORT FOR: Decision

1. Purpose

- 1.1 The purpose of this report is to gain Portfolio Holder consent to complete the Freehold Community Asset Transfer of the Land and Oak Tree adjacent to the First station, Rhayader. As part of the Authorities management, an inspection of the tree to assess the condition took place with a recommendation of removal. It is the Town Councils interest to Take on responsibility of the tree via a Community Asset Transfer for £1, in aid of retaining the feature.

2. Background

- 2.1 Following a survey from the Housing department in February 2022, please see appendix A. It's been identified that the tree would require immediate work to manage the likely ongoing maintenance. It was the recommendation of the report to remove the tree with consideration with regards to replanting. The recommendation was supported by the Housing department as taking down the tree will remove the long-term liability. Following the findings of the report the Housing department approached the Town Council to explain the decision as it was acknowledged the tree is regularly used as securing Christmas light as well as a feature of the town. It was the opinion of the Town Council that the tree should be retained that lead to discussions regarding transfer.
- 2.2 Following the expression of interest from the Town Council and Local Member, an independent report was sourced. This was not considered by the Authority as it was not undertaken by a qualified arborist. Discussion concluded that a Community Asset Transfer of the Freehold would be acceptable by the Housing service on the basis that they would contribute 50% of the initial urgent works required to pollard the

tree. Following this contribution all future liabilities associated with the tree be transferred to the Town Council.

3. Advice

- 3.1 The site is currently managed by the Housing department. The tree is an ongoing maintenance liability as well the stone wall which surrounds the base forming the boundary of the red line plan see Appendix B. The land is located alongside a narrow shared vehicular access as well as the Fire Station.
- 3.2 Although being located close to a residential property the area included in the transfer is not significant and is almost entirely occupied by the Tree. As a result, the value of the land, considering the potential liabilities would be nominal.
- 3.3 The freehold transfer is considered a practical mechanism for allowing the Town Council to take on the full responsibility for the Oak Tree and land whilst reducing all potential liability on the Authority, A CAT lease option whilst an option is not supported by the Town Council and could leave the Authority with some residual liability, should any incident occur. As with any Freehold CAT, standard RIDER clauses apply, please see attached appendix C. The inherit liability coupled with the RIDER clauses restricting any future sale values the Freehold transfer at £1.
- 3.4 There are two options open to the council in respect of this Expression of Interest
 - 3.4.1 Option One: Support the freehold CAT for £1 allowing the Town Council to carry out works to the tree and all future works.
 - 3.4.2 Option Two: Not proceed with the CAT and allow the Housing department to remove the tree, and all associated liabilities.
- 3.5 The Housing Services instruction is to support option 1.

4. Resource Implications

- 4.1 It is considered that this land has a nominal value. Disposal would not create a loss in the council's accounts however will reduce an ongoing maintenance cost to the service of regular surveys and any remedial work required.
- 4.2 The cost of the works required to maintain the tree has been valued at circa £750. As part of the Freehold transfer Housing will contribute circa £375 from the Housing Revenue account, which is available in the 2023-24 budget.

- 4.3 Should Powys County Council retain the tree and not invest in the required works the authority will be liable for any damages caused, noting the proximity to a residential property, the road, pedestrians or vehicles. This responsibility passes to the Town Council under the Freehold CAT.
- 4.4 There is currently not rental income from the land
- 4.5 The Head of Finance (Section 151 Officer) notes the content of the report and can support the recommendation.

5. Legal implications

- 5.1 The title to the land is unregistered and we do not hold the original Conveyance which conveyed the land to the Rural District Council of Rhayader on 25th November 1931. The Council hold an examined copy of this 1931 Conveyance which will be presented to the Town Council's Solicitor to evidence our ownership of the land. This may lead to enquiries being raised by their legal adviser however, the legal department will deal with any enquiries raised in this regard.
- 5.2 In accordance with the Corporate Asset Policy, SAB Approval of this transfer was sought by email rather than at a SAB meeting given the urgency involved. The procedure to be followed when a CAT transfer is being assessed is set out in section 3 of Part 5B of the Policy and it is noted that the procedure has been deviated from in that the Town Council has not been asked to complete an Expression of Interest and to produce its Business Case in respect of this transfer which in turn is then assessed in a SAB meeting. In addition, section 4 of the Corporate Asset Policy states that where an applicant can only submit a nominal bid for the freehold interest of the property, it is suggested that a freehold transfer will not be agreed and instead a long-term lease of the property is encouraged instead. Commentary is provided in section 4 of this report headed '*Resource Implications*' as to the financial considerations at play here and why a freehold transfer is being considered rather than a lease of the land.
- 5.3 The Legal Department will undertake the legal work required for the freehold transfer to Rhayader Town Council as a Community Asset Transfer and the Council's standard claw back provisions will be included in the transfer deed.

Property Lawyer (Mid)

- 5.4 The Head of Legal Services and the Monitoring Officer has commented: " I note the legal comment and support the recommendation"

6. Data Protection

6.1 Not applicable.

7. Comment from local member(s)

7.1 The local member, Cllr. Angela Davies – Rhayader

In support of the CAT transfer of the Oak Tree on East Street Rhayader, from PCC to Rhayader Town Council.

It was in April 2022 that Cllr. Kelvyn Curry shared a survey commissioned by PCC resulting in a proposal to cut down the Oak tree on East Street. Following this news Rhayader Town Council (RTC) received many representations from residents wanting to save the tree. Having commissioned their own tree survey in June'22, at the suggestion of PCC, RTC were very disappointed that PCC would not accept its findings that the tree could be saved if trimmed back by 50%. Many emails later came a suggestion from PCC that RTC take ownership & responsibility for the Tree. After much negotiation and conversations with insurers etc on 12th Dec'22 RTC agreed take the tree and PCC agreed to pay 50% of the tree survey works to partially save the tree. This was a win / win situation for all parties concerned and should have been the end of a long and protracted negotiation...but here we are five months later and no further on. As County Councillor for Rhayader I am in full support RTC taking responsibility for the Tree – I applaud the town councillors for their patience and determination and their 'can do' attitude to meeting residents demands by working to save an much-loved ancient Oak tree which is a local landmark.

8. Integrated Impact Assessment

8.1

9. Recommendation

9.1 It is recommended that the Portfolio Holder for A Connected Powys grants delegated authority to the Head of Property, Planning and Public Protection to accept the recommendation of supporting the Freehold CAT.

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