

Delegated Decisions report



29 November 2022

DISPOSAL OF ADDITIONAL LAND IN NEWPORT PAGNELL TO ASTON MARTIN HERITAGE TRUST FOR THE PURPOSE OF CONSTRUCTING THE ASTON MARTIN CAR MUSEUM

Name of Cabinet Member	Councillor Rob Middleton (Cabinet member for Resources)
Report sponsor	Stuart Proffitt Director - Environment and Property
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Exempt / confidential / not for publication	Yes
Council Plan reference	n/a
Wards affected	Newport Pagnell South

Executive Summary

The Council took a Delegated Decision on 5 October 2021 which approved the disposal of 2.50 acres of land to Aston Martin Heritage Trust (AMHT) for the construction of a new Aston Martin Car Museum.

Since the Council's decision AMHT has requested two additional areas of land which are shown green and blue on the plan at **Annex A**.

A decision is now needed to consider the disposal of the additional green and blue land to the AMHT reflecting the terms of the Council's previous decision of 5 October 2021 which is the purpose of this report.

1. Decisions to be Made

- 1.1 That the public and press be excluded from the meeting by virtue of Paragraph 3 (Information relating to the Financial or Business Affairs of the Authority) of Part 1 of Schedule 12A of the Local Government Act 1972, in order that the meeting may consider the **confidential Annex B** to the report.

- 1.2 That the draft Heads of Terms for leasing the green and blue land to Aston Martin Heritage Trust (AMHT), as contained in **Annex B**, be approved and the Council enter into the lease and any necessary agreements with AMHT to deliver the new Aston Martin car museum.
- 1.3 That authority be delegated to the Director - Environment and Property, in consultation with the Cabinet member for Resources and the Director - Finance and Resources, to agree any variations to the Heads of Terms with the AMHT as set out in this report, and agree to enter into any other necessary documents and agreements to effect the decisions made pursuant to this report, including those with other parties including Newport Pagnell Town Council.
- 1.4 That the Council approve the grant of subsidy of £220,000 to AMHT which is the cash equivalent of leasing the properties to AMHT at less than market value, subject to receipt of confirmation from AMHT.

2. Background

- 2.1 The AMHT is a Public Educational Charity governed by the rules for charitable incorporated organisations. The AMHT currently manages a museum and archives of Aston Martin vehicles which it regards as too small, not in the right location and with the unsuitable storage conditions. This has resulted in AMHT needing a new location that will enable it to develop new premises for the Aston Martin car museum and its archive.
- 2.2 For the construction of the car museum and archive this requires the Council's land to be developed as the museum's car park with storage and ancillary facilities. The museum itself is proposed to be built on adjoining land owned by Newport Pagnell Town Council. The two sites together make a suitable area for the AMHT to develop its car museum for which planning consent will be required.
- 2.3 The requirement for the Council's land was the subject of the Council decision of 5 October 2021 which approved making the land available to AMHT on the terms set out in **confidential Annex B**.
- 2.4 Once the AMHT has secured the land from the Council and Newport Pagnell Town Council on conditional agreements for lease it will then seek and agree funding for the next stage of detailed design and development of the car museum subject to planning consent. The AMHT is confident funding can be secured and this will be a condition in the agreement for leases for both the Council's and Town Council's land.
- 2.5 The land subject to the Council decision of 5 October 2021, comprising the Lovat Meadow former caravan park site, is shown edged red on the plan at **Annex A**. This land comprises 1.01 ha (2.5 acres) of mainly grassed areas with a circular surfaced track in the centre which has not been used for some years.

- 2.6 The additional green and blue land AMHT identified as required post the Council’s 5 October 2021 decision followed a more detailed consideration by AMHT, and in part is to link up with the adjoining land being made available by Newport Pagnell Town Council where the new car museum will be built.
- 2.7 The Newport Pagnell Town Council land being provided for the new car museum is shown edged orange on the plan at **Annex C**.
- 2.8 The green land comprises 0.9 acres and has been valued at £30,000 freehold. The blue land comprises 0.6 acres and has been valued at £15,000 freehold. The valuations were carried out in June 2022. These values would be at the upper end of a leasehold interest. Given there is often a discount for a leasehold compared with a freehold interest these freehold values are considered relevant for this report. The disposal of the green and blue land to AMHT will be a 125 year lease as per the Heads of Terms at Annex B and as set out in this report.
- 2.9 The red edged land shown at **Annex A** was valued for 5 October 2021 decision at £120,000. This value was re-assessed in June 2022 to be £175,000 which reflects land values have increased.
- 2.10 There is a footpath through the green land which runs along the southern boundary of the red edged land and within the blue land. The intention is AMHT will re-route this footpath to the northern boundary of the red edged land following discussions with the Council.

3. Why is the Decision Needed?

- 3.1 The disposal of the green and blue land constitutes a Key Decision under the Leader’s Scheme of Delegation.

4. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	N
Legal	Y	Policies or Council Plan	Y
Communication	N	Procurement	Y
Energy Efficiency	Y	Workforce	Y

(a) Financial Implications

The Council will meet its own reasonable legal and valuation costs incurred in making the land disposal to AMHT.

(b) Legal Implications

The Local Government Act (LGA) 1972 s123 requires Local Authorities to obtain the best consideration reasonably obtainable in the disposal / lease of land and this applies to the lease disposal to AMHT. This is a duty to obtain an outcome. S123 does not prescribe a process by which best value is obtained. There is no specific method/route to be used to achieve best value. It is for the Local Authority to assess and come to a decision, acting reasonably considering relevant factors, disregarding irrelevant factors.

Disposals of land by Local Authorities for more than seven years for less than best consideration requires the consent of the Secretary of State.

However, the General Disposal Consent (GDC) in Circular 06/03 provides that a Local Authority may dispose of its land for more than seven years at under value up to £2M if it considers the disposal will achieve the promotion or improvement of economic, social or environmental well-being of its area provided the disposal is subsidy complaint and the land is not held as housing land or under the Town and Country Planning Act (TCPA) 1990.

The terms of the disposal of the red edged land mean AMHT will not be paying the Council a consideration and this would apply to the green and blue land. Taking into account the value of the red edged land this means the total amount of undervalue that will be given by the Council to AMHT in the disposal, with the green and blue land is assessed at £220,000. This undervalue sum is within the £2M GDC limit.

The Council is still satisfied the disposal at this undervalue to AMHT for the new car museum will achieve the promotion or improvement of economic, social or environmental well-being of its area as detailed in 5 October 2021 decision. That decision report and decision is attached at **Annex D**.

The green and blue land is not housing land under the TCPA 90.

The green and blue land is classed as public open space. Section 123 (2)(a) of the Local Government Act 1972 requires a council to advertise their intention to dispose of public open space in a local newspaper for two consecutive weeks and to consider any objections to the proposed disposal before they dispose of the land. The intention to dispose of the public open space has been duly advertised on 13 and 25 October and time was allowed up to 10 November for any comments / objections.

There were no objections / comments to the advertisement to dispose of the green and blue land.

(c) Procurement

The Council must consider whether the Public Contracts Regulations 2015 (as amended) apply to the various arrangements relating to this transaction.

Land transactions by local authorities are specifically exempted from the application of the Public Contracts Regulation under regulation 10 (1) (a), however case law has established that such transactions are still caught by procurement rules where certain conditions are attached and thereby causing them to be deemed to be public works contracts. Conditions include:

- works are required or specified by a contracting authority;

- there is an enforceable (legal) obligation on another party to carry out the works, and
- there is a pecuniary interest for carrying out the works which can be an economic benefit rather than monetary sum.

The disposal of the land to AMHT on the terms set out in this report does not satisfy the requirements of a public works contract.

(d) Subsidy

There is the need for the Council to consider and ensure it is compliant with the requirements for subsidy control under the Subsidy Control Act 2022.

The proposed amount of subsidy that would be granted to AMHT is equivalent to the assessed value of £220,000 (Section 36(5)(b)).

Under Section 36(1) of the Subsidy Control Act, this amount falls within the threshold of minimal financial assistance exemption which is specified as £315,000 over the past three financial years (counting back from the present financial year).

The Council can only grant this amount of subsidy to AMHT following compliance with the procedures set out in Section 37 of the Subsidy Act which includes requesting written confirmation from the recipient, AMHT, that the total amount of £315,000 will not be exceeded by the enterprise receiving the proposed assistance.

The Council has written to AMHT asking for confirmation the total subsidy it has been granted will not exceed £315,000 over the last three financial years, if the Council grants AMHT the subsidy of £220,000 as detailed in this report. This confirmation is awaited at the time of writing this report and will be a condition of the land disposal to AMHT on the terms detailed in this report.

As the proposed subsidy is above £100,000, the Council also has to comply with transparency requirements under Part 2, Chapter 3 of the Subsidy Act. This imposes a duty on the Council to make an entry into the subsidy database in respect of a subsidy that it gives. The subsidy database is one that is set up by or under the direction of the Secretary of State and the entry must be made by the Council within 3 months of the confirmation of decision to grant the subsidy. Any future modifications to the subsidy must also be recorded in the database.

(e) Other Implications

In accordance with the Modified Newport Pagnell Neighbourhood Plan a provision for a new cycle route within the site to connect to the existing redway routes may be required. These details need to be worked out.

(f) Policy

Newport Pagnell Modified Neighbourhood Plan June 2021.

Plan:MK.

4. Alternatives

1.1 Do Nothing

This is not the recommended option as this does not deliver the AMHT car museum and consequently will not deliver the resulting social and economic benefits.

1.2 Dispose of the green and blue land to AMHT with the red edged land on the terms set out in this report - this will deliver the AMHT car museum along with the resulting social and economic benefits, and is the recommended option.

List of Annexes

Annex A	Milton Keynes City Council land plan
Annex B	Heads of Terms with AMHT (confidential)
Annex C	Newport Pagnell Town Council land plan
Annex D	Milton Keynes City Council decision and related report of 5 October 2021

List of Background Papers

None