

# Delegated Decisions report



5 October 2021

## DISPOSAL OF LAND IN NEWPORT PAGNELL TO THE ASTON MARTIN HERITAGE TRUST TO CONSTRUCT THE ASTON MARTIN MUSEUM

Name of Cabinet Member	<b>Councillor Rob Middleton</b> (Cabinet member for Resources)
Report sponsor	<b>Stuart Proffitt</b> Director - Environment and Property
Report author/s	<b>Ed Palmieri</b> Commercialisation Lead for Property <a href="mailto:Ed.Palmieri@milton-keynes.gov.uk">Ed.Palmieri@milton-keynes.gov.uk</a>

Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>n/a</b>
Wards affected	<b>Newport Pagnell</b>

### Executive Summary

The Council has been approached by the Aston Martin Heritage Trust (AMHT) who want to construct the Aston Martin car museum in Newport Pagnell. The Town Council suggested the Council's unused former caravan park site off Downs Field in Newport Pagnell, known as Lovat Meadow, would be suitable to provide the car park for the new museum, with the museum being constructed on nearby allotment land owned by the Town Council. The Town Council proposes to make its allotment land available to AMHT. Aston Martin has a long and significant history with Newport Pagnell and the Aston Martin Heritage Works are still an important industry in the town.

Various discussions have taken place between all three parties and terms have been proposed to lease Lovat Meadow to AMHT in conjunction with similar lease terms for the allotment land to go hand in hand to deliver the development of the AMHT car museum.

A decision is now needed to consider the proposed letting terms for Lovat Meadow to AMHT which is the purpose of this report.

## 1 Decisions to be Made

- 1.1 That the public and press representatives 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 1792, in order that the meeting may consider the **Confidential Annex B** to this report.
- 1.2 That the draft Heads of Terms for leasing Lovat Meadow to AMHT, as contained in **Annex B**, be approved.
- 1.3 That the Council agrees to enter into the lease and related agreements with AMHT to deliver the AMHT car museum.
- 1.4 That the Council agrees to enter into any necessary agreements with Newport Pagnell Town Council for the purposes of the lease to AMHT to deliver the AMHT car museum.
- 1.5 That the Director - Environment and Property, in consultation with the Cabinet member for Resources and the Director - Finance and Resources, be given delegated authority to agree any variations to the Heads of Terms with the AMHT as set out in the report, and to agree any other necessary documents and agreements to affect the decisions made pursuant to this report including those with Newport Pagnell Town Council.

## 2 Background

- 2.1 Lovat Meadow is a former caravan park site comprising 1.01 ha (2.5 acres) of mainly grassed areas with a circular surfaced track in the centre that has not been used for some years. The freehold is owned by the Council. The site slopes down to the River Ouzel to the south. The site is accessed via a private drive through a short extent of wooded area from Downs Field which is an adopted highway. The access strip abutting the highway is part of the site and the whole site is shown edged red on plan at **Annex A**.
- 2.2 The site is designated in Plan:MK as being within open countryside and in a wildlife corridor. The current permitted use for the site is as a caravan park (planning reference 99/01582/FUL but has not been in this use for a number of years.
- 2.3 Being adjacent to the River Ouzel the southern section of the site is in flood zones 2 and 3 limiting the use of the site to some extent and having an impact on the site's market value.
- 2.4 An independent market valuation of the site puts this at £120,000 for the Council's freehold interest assuming vacant possession, reflecting the site's attributes.
- 2.5 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 views as too small and not in the ideal location and

the current storage conditions are not suitable. This has resulted in AMHT searching for a site that will enable it to develop suitable new premises for a museum and archive and in the right location.

- 2.6 The Town Council has offered AMHT its nearby allotment site (shown edged orange on the plan at **Annex C**) for the construction of the museum and archive and this requires the Council's Lovat Meadow site to be developed as the museum's car park with storage and ancillary facilities. The two sites together make a suitable area for the AMHT to develop its museum for which planning consent will be required.
- 2.7 The AMHT has developed a business plan (included at **Annex D**) which sets out the proposals for the museum. The intention is the museum will be a world class museum similar in size and reputation to other prestige car marques such as Porsche, Ferrari and Mercedes Benz.
- 2.8 The museum will focus resources on continuing links and collaborations with local education establishments - schools, university and college, and these will be rolled out as set out in the business plan. The museum will have classroom and lecture rooms to deliver its charitable objective for the advancement of education study and research relating to automotive engineering and design of the brand's car marques.
- 2.9 The educational (social) benefits from the museum's activities will include provision of teaching packs, support to apprenticeship schemes offered by Cranfield University and offering the University access to a centre of excellence for its world class automotive and business programmes. Linking to higher education the museum will also be on hand to demonstrate to school students that Science Technology Engineering and Mathematic subjects are exciting career options. The museum will have onsite resources for information on apprenticeships.
- 2.10 Other social benefits derived from the museum will be from offering an exciting and inspiring visitor attraction. The iconic world renown Aston Martin brand will offer cultural benefits by providing a place where visitors to the museum can explore and be inspired by the brand's link with the popular James Bond character. There is also potential for local collections about Aston Martin to become part of this museum providing public access to local significant museum and archive material for the first time.
- 2.11 The museum will deliver economic benefits derived from local tourism (both day and overnight visitors), direct and indirect employment and goods and services spend.
- 2.12 Once the AMHT has secured the land from the Council and Town Council on conditional agreements for lease it will then seek funding for the next stage of detailed design and development of the 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.

### 3 Why is the Decision Needed?

- 3.1 The AMHT has asked the Council to lease the Lovat Meadow site on the basis of nil consideration and the same has been asked of the Town Council for their allotment site. The Town Council has agreed to this in principle.
- 3.2 Such a disposal by the Council will be considered a disposal at undervalue and this needs to satisfy certain requirements to be lawful. Given the museum will deliver social and economic benefits the disposal of the Lovat Meadow site to AMHT on the proposed heads of terms is considered to satisfy these legal requirements and accordingly to be lawful. This is detailed in the Legal section.
- 3.3 Undertaking this transaction in this way secures the museum within the borough. Two other nearby authorities were options for the AHMT to secure a site.

### 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. These costs will be recovered using some of the S106 monies (£149,079) from the Tickford Fields development which provides for the monies to be used in the first instance for an Aston Martin museum locally.

(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 require the consent of the Secretary of State.

The General Disposal Consent in Circular 06/03 provides that a Local Authority make 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 & Country Planning Act (TCPA) 1990.

As detailed above the disposal will lead to the promotion or improvement of economic and social well-being of the Borough. The undervalue disposal being £120,000 is within the £2M threshold. As explained below subsidy does not apply and the land is not held as housing land or under the TCPA 90. This means the disposal to the AMHT is considered to satisfy the General Disposal Consent in Circular 06/03.

A title check revealed a lease dated 18 June 1996 as being registered. The lease was for 14 years from 1 January 1996 and has since expired given the site has been vacated for some time. This lease will need to be removed from the title by application to the Land Registry.

(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:

- (i) works are required or specified by a contracting authority;
- (ii) there is an enforceable (legal) obligation on another party to carry out the works; and
- (iii) there is a pecuniary interest for carrying out the works which can be an economic benefit rather than monetary sum.

Given lease disposals can satisfy the requirements of a public works contract the Council has structured the lease terms with AMHT to ensure it is not caught by procurement rules.

(d) Subsidy

There is the need for the Council to consider and ensure it is compliant with the requirements for subsidy control (formerly known as state aid). The “*State Aid*” Regime in the UK was replaced with “*Subsidy Control*” which arises from the Trade and Co-operation Agreement (TCA) entered into between the United Kingdom Government and the European Union which took effect from 1 January 2021 by virtue of the EU (Future Relations) Act 2020.

The Government has published Technical Guidance to assist Local Authorities in understanding subsidy control and to make related decisions in compliance. The most succinct explanation of this is contained within the document *“Summary Guide to Awarding Subsidies”* published by BEIS on 31 December 2020.

Subsidy under these obligations in summary is defined as financial assistance arising from public resources which confer an economic advantage on one or more economic entity and is specific in so far as it benefits certain economic actors over others in relation to the production of certain goods or services; and has or could have an effect on trade or investment between the UK and the EU. Where all these elements exist, then subsidy exists and in order for subsidy to be granted lawfully, there are 6 principles that a public body must assess the proposed subsidy against and evidence how its proposed subsidy complies with or satisfies the said principles.

The TCA provides that any subsidy(ies) with a cumulative value of more than £350,000 (the de minimis level) is / are subject to compliance with these principles. However given the lease disposal to AMHT at undervalue of £120,000 is less than the de minimis level subsidy principles do not apply so long as the AMHT has not received subsidy from other sources which leads to the de minimis level of £350,000 being exceeded in a 3 year period. The Council will ask AMHT to confirm it has not received subsidy from any other sources as a condition of the lease grant.

These principles are:

(a) Principle 1

It must pursue a specific public body objective to remedy an identified market failure or to address an equity rationale such as social difficulties or distributional concerns.

(b) Principle 2

It must be proportionate and limited to what is necessary to achieve the objective.

(c) Principle 3

It must be designed to bring about a change in economic behaviour of the beneficiary that is conducive to achieving the objective and that would not be achieved in the absence of subsidies being provided.

(d) Principle 4

It must not normally compensate for the costs the beneficiary would have funded in absence of any subsidy.

(e) Principle 5

It must be an appropriate policy instrument to achieve a public policy objective and that objective cannot be achieved through other less distortive means.

(f) Principle 6

Its positive contributions to achieving the objective must outweigh any negative effects in particular the negative effects on trade or investment between the parties.

(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.

## 5 Alternatives

- 5.1 Do Nothing - this is not recommended as this option does not deliver the AMHT museum and deliver the social and economic benefits.
- 5.2 Grant the lease to AMHT for consideration - this will require AMHT paying a sum for the lease which reflects best consideration (s123 of the Local Government Act 1972), such sum being £120,000. This is not recommended as AMHT are a charitable organisation already reliant on benefactors to fund the museum. By granting a lease to AMHT at nil consideration in support of the benefits the museum will deliver is likely to help AMHT secure necessary funding from others if the Council and the Town Council are seen to offer their lands at undervalue, albeit a small contribution to the total cost of delivering the museum.
- 5.3 Grant the lease to AMHT at nil premium - this will deliver the AMHT museum along with the social and economic benefits and is the recommended option.

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## List of Annexes

Annex A	Lovat Meadow Site Plan
Annex B	Heads of Terms with AMHT (confidential)
Annex C	Town Council Allotment Plan
Annex D	AMHT Business Plan

## List of Background Papers - None

## DELEGATED DECISION 5 OCTOBER 2021

<b>Present:</b>	Councillor Middleton (Cabinet member for Resources), Councillor Wilson-Marklew (Cabinet member for Climate and Sustainability), P Thomas (Director - Planning and Placemaking), E Palmieri (Commercialisation Lead for Property), J Povey (Strategic Lead - Transport, Policy and Planning), R Singh-Johal (Interim Head of Legal Services) and J Crighton (Committee Manager)
<b>Also Present:</b>	Councillor R Bradburn and three members of the public

Item	Decision	Decision Maker	Documents / Representations Taken into Account
Road Safety, Walking and Cycling and Smarter Travel Strategy	That the Road Safety, Walking and Cycling Smarter Travel Strategy be adopted.	Councillor Wilson-Marklew (Cabinet member for Climate and Sustainability)	Report and representations from three members of the public
Disposal of Land in Newport Pagnell to the Aston Martin Heritage Trust to Construct the Aston Martin Museum	<ol style="list-style-type: none"> <li>1. That the public and press representatives 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 1792, in order that the meeting may consider the Confidential Annex B to the report.</li> <li>2. That the draft Heads of Terms for leasing Lovat Meadow to Aston Martin Heritage Trust (AMHT), as contained in Annex B, be approved.</li> <li>3. That the Council agrees to enter into the lease and related agreements with AMHT to deliver the AMHT car museum.</li> </ol>	Councillor Middleton (Cabinet member for Resources)	Report



## DELEGATED DECISION 5 OCTOBER 2021

Item	Decision	Decision Maker	Documents / Representations Taken into Account
	<p>4. That the Council agrees to enter into any necessary agreements with Newport Pagnell Town Council for the purposes of the lease to AMHT to deliver the AMHT car museum.</p> <p>5. That the Director - Environment and Property, in consultation with the Cabinet member for Resources and the Director - Finance and Resources, be given delegated authority to agree any variations to the Heads of Terms with the AMHT as set out in the report, and to agree any other necessary documents and agreements to affect the decisions made pursuant to this report including those with Newport Pagnell Town Council.</p>		

A request to call-in the decision, bearing the names of two Members of the Council, the Chair or Clerk of a Parish or Town Council, or signed by twenty residents of Milton Keynes, should be sent to the Director Law and Governance, Civic Offices, 1 Saxon Gate East, Central Milton Keynes, MK9 3EJ, Telephone: (01908) 254195 or e-mail [sharon.bridglalsingh@milton-keynes.gov.uk](mailto:sharon.bridglalsingh@milton-keynes.gov.uk) no later than **5.00 pm on Friday 15 October 2021**. In submitting the request to the Director Law and Governance for a decision to be called-in, the requester must specify reason/reasons for calling in the decision.

A form which twenty residents of Milton Keynes may complete to request that a decision is called in can be accessed from the link: <http://milton-keynes.cmis.uk.com/milton-keynes/PublicDocuments/Call In Request Form>