

Key Decision Required:	No	In the Forward Plan:	No
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DEPUTY CHIEF EXECUTIVE

November 2019

A.1 TERMS FOR A DEED OF VARIATION OVER THE LEASE TO ESSEX WILDLIFE TRUST AT THE NAZE, WALTON ON THE NAZE

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PART 1 – KEY INFORMATION**PURPOSE OF THE REPORT**

To consider terms to vary the Lease granted to Essex Wildlife Trust over land at The Naze, Walton

EXECUTIVE SUMMARY

The Council granted a Lease to Essex Wildlife Trust in 2014 over land at the Naze in Walton in order for them to construct a visitor centre. As part of that lease, the former public conveniences were included with the intention that once the new toilets were constructed as part of the Centre the old building would be converted to a ranger store.

Essex Wildlife Trust have decided that this store is not required and have asked that this property be taken out of the Lease and the money the Council was supposed to spend on converting the building is used to demolish it.

RECOMMENDATION(S)

That the Corporate Director, Corporate Services, agrees to the variation of the Lease on the terms set out in the Current Position section below.

PART 2 – IMPLICATIONS OF THE DECISION**DELIVERING PRIORITIES**

Agreeing to the variation of the lease and the demolition of the building meets the following Council priorities:

- Effective partnership working
- Make the most of our assets

FINANCE, OTHER RESOURCES AND RISK**Finance and other resources**

In return for removing the liability of the former public conveniences from the Lease, EWT will agree a variation to the definition of Operational Surplus. Allowing use of their share of the profit from the car park income for improvements to the car park. This is explained more fully in the Current Position section below.

The terms of the Lease provided for the Council to spend £10,000.00 on the conversion of the former public conveniences to a ranger's store. The conversion has not yet taken place and therefore the funds can go towards the demolition.

Risk

The property would need to be demolished as soon as possible following completion of a Deed of Variation removing it from the Lease so that TDC's liability in this regard is removed.

LEGAL

In coming to decisions in relation to management of assets, the Council must act in accordance with its statutory duties and responsibilities. Under case law following Section 120 of Local Government Act 1972, the Council is obliged to ensure that the management of its assets are for the benefit of the district.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.

This building is currently unused and in a poor condition, this sort of property can sometimes encourage undesirable behaviour.

Area or Ward Affected

Walton

PART 3 – SUPPORTING INFORMATION**BACKGROUND**

Essex Wildlife Trust was granted a Lease to build a Visitor Centre at the Naze in 2014, the area granted in the lease is shown edged green on the plan in Appendix A. The Visitor Centre was to include public toilets to replace the old toilet block at the Naze. Following completion of the Centre and the new toilets, the old toilet building was to be taken over by Essex Wildlife Trust and converted to a ranger store using a £10,000.00 contribution from Tendring District Council.

After the centre had been constructed and opened, Essex Wildlife Trust decided they did not require extra space for a ranger's store and would prefer the former toilet building to be removed from the Lease and demolished. The former toilet block is shown coloured blue on the plan in Appendix A

CURRENT POSITION

In exchange for the liability of the former toilet block being removed from the Lease, Essex Wildlife Trust have agreed to the amendment of the profit share arrangements in respect of the car park income. Currently the lease says that the Council will pay to Essex Wildlife Trust 50% of any Operational Surplus from the Car Parks. Operational Surplus is defined as:

'the annual income above £55,400.00 per annum, index linked, from the Car Parks minus the cost of maintaining the Car Parks and subject to a cap of £17,500.00 per annum index linked'.

Essex Wildlife Trust have agreed to add a section to this to say that their 50% share of the Operational Surplus can be used, uncapped, towards agreed improvements to the Car Park and Naze area.

Now that the construction of the building has been completed, the leased area (edged green on the plan) does not accurately reflect the position on the ground. The main discrepancies are at the front of the building which should include the disabled bays, loading bay and the grassed area to the west from where the tarmacked road begins, but not the actual road. This area is shown edged red on the plan and EWT have agreed is an accurate reflection of the site. It is proposed to

amend the Lease plan to show the area edged red.

Essex Wildlife Trust have agreed to pay Tendring District Council's legal fees in respect of the Deed of Variation.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDICES

Appendix A - Plan