

Report to Rochdale North Township Committee



Date of Meeting	10 February 2021
Portfolio	A Thriving Economy
Report Author	Peter Gregory
Public/Private Document	Public

Cutgate Shopping Precinct Car Park, Edenfield Road, Rochdale

Executive Summary

- 1.1 This report is not asking Township Committee to make a decision; it is seeking the views of the Committee in order that those views might subsequently inform a decision of Cabinet.
- 1.2 A substantial part of the car park and associated landscaping at Cutgate Shopping Centre, as shown edged on the attached plan, is held by Rochdale Council under a Deed of Dedication. The Council does not own the land, the owners dedicated it in 1976 as an off street car park to be maintained for public use at public expense.
- 1.3 As a free car park, maintenance is the responsibility of the Rochdale North Township. The Township has no identified budget in place for these repair and maintenance responsibilities, have expressed concern about the ongoing maintenance liability and requested the Director of Economy to investigate options.
- 1.4 Following extensive discussions, the owners of Cutgate Shopping Centre are willing to release the Council from the Deed of Dedication. The implications of terminating the Deed of Dedication are that the Council will no longer face the cost and indemnity liabilities arising from the car park, but will also lose control of the way the car park is managed.

As a disposal of the Council's interest in the property the surrender of the Deed of Dedication can be approved on one of two ways:

- i. If all Ward Councillors and Township Chair agree to the disposal, the matter can be determined by the delegated authority of the Portfolio Holder for Finance.
- ii. If any of the Ward Councillors or Township Chair withhold approval, the matter needs to be determined by Cabinet.

- 1.5 As approval for the proposal has not been granted by all four Member consultees, it is intended to present the matter to the next convenient Cabinet meeting for consideration. However, the views of the Township are required to inform Cabinet's decision-making.

Recommendation

- 2.1 It is recommended that:
- i. In order to inform Cabinet of the Township Committee's views, Rochdale North Township decides whether or not to support the proposed surrender of the Deed of Dedication.
 - ii. In the event that the Township Committee wishes the Deed of Dedication to be retained, Rochdale North Township Committee advises Cabinet, for its consideration, whether or not it is willing to fund the ongoing estimated maintenance costs, as set out in paragraph 5.3.

Reason for Recommendation

- 3.1 The car park at Cutgate Shopping Centre is a source of complaints and insurance claims due to its poor state of repair. The Council has been forced to find money from various budgets to carry out patch repairs.
- 3.2 The budgetary responsibility for maintenance rests with Rochdale North Township Committee. Should the Committee decide it wishes the car park to remain dedicated to the public it will be committing itself to funding maintenance costs in perpetuity. It is acknowledged that the Township Committee has had difficulties in committing the required funds in the past.
- 3.3 If Rochdale North Township is willing and able to commit itself to funding the car park maintenance in perpetuity, this report can be withdrawn. A Cabinet decision is appropriate in the event that the Township Committee wishes to request corporate funding for this purpose.
- 3.4 The owners of the shopping centre are prepared to release the Council from these ongoing liabilities by accepting a surrender of the Deed of Dedication. Following protracted negotiations the owners have also agreed to drop their demand that the Council should bring the condition of the car park up to pristine standards, which would have cost the Council in excess of £50,000.

Key Points for Consideration

- 4.1 Part of the car park and landscaping at Cutgate Shopping Centre was dedicated by the owner to public use in November 1976. Under the terms of the Deed the car park is to be maintained by the Council at public expense.
- 4.2 The car park is falling into disrepair and is costing the Council increasing amounts of money, as set out in Section 5.1. As long as the Deed of Dedication remains in place the management and maintenance of the car

park is the responsibility of the Township as an unregulated car park. There is no dedicated Township or corporate budget for the repair and maintenance work.

- 4.3 The Council has faced the threat of legal action due to the periodic deteriorating condition of the car park. If the Council is unable to identify a dedicated budget for routine maintenance and a periodic capital budget for more extensive works there is a risk of injury or damages as a result of uneven surfaces.
- 4.4 The owners are willing to release the Council from this Deed of Dedication and have dropped their pre-condition that the Council should carry out maintenance works costing in the region of £50,000.

Alternatives Considered

- 4.5 Rochdale North Township could decide that the Deed of Dedication remains in place in which case funds will need to be available for annual maintenance to the estimated sum of £5,000 per annum and/or a periodic and larger capital sum. The car park could remain with the Council and future public use would be secured. However, the council would not be able to do anything with the site, would remain liable for its repair and maintenance and would be vulnerable to claims for damage or injury. The borough has a number of similar multi-unit shopping precincts, but there are no other instances where the Council has retained either dedication to public use or maintenance liabilities.

Costs and Budget Summary

- 5.1 Over the last 6 years the Council has incurred the following costs to maintain the car park, the landscaping and to undertake the associated waste management:

Year	Township	AMG	Environmental Management
2020/21	£415.00		£1,900
2019/20	£3,844.00		£1,900
2018/19			£1,900
2017/18		£1,660.00	£1,900
2016/17		£5,197.00	£1,900
2015/16		£185.00	£1,900
	£4,259	£7,042.00	£11,400

- 5.2 It is important to note that the Township and AMG costs have been spent on patch-repairing the car park surface or filling in potholes. There will come a time when such repairs will no longer be feasible and extensive resurfacing works will be required, at an estimated cost (in today's value) of £50,000. It is expected that full resurfacing works will need to be undertaken within five years, but not required again for another 25 years.

- 5.3 In view of the above, an estimate as to the future repairing liabilities is as follows. Please note, however, that this estimate is subject to a high degree of uncertainty, but it should be taken as highly indicative.

	Estimated Costs
2021/22	£4,000
2022/23	£4,000
2023/24	£4,000
2024/25	£4,000
2025/26	£52,000
2026 - 2035	£40,000
2035 - 2045	£40,000
2045 - 2055	£90,000
Total for 2021 - 2055	£238,000

- 5.4 Formal budgetary responsibility for the car park lies with Rochdale North Township Committee. However, there appears to be some uncertainty as to whether Township has the freedom to utilise its funds for the purpose of maintaining this car park. Township Funds Terms and Conditions state (under “activities that may not be funded”) improvements to private land, unless there is a demonstrable community benefit. However, it is assumed that Township would only wish to retain the car park in public use on the basis that there is a demonstrable community benefit.
- 5.5 Since 2015 Township has agreed funding on three separate occasions totalling £7,042 to address health and safety concerns. In 2015 the then Rochdale Township Committee was asked to fund a larger scheme at a cost of £12,500, the committee declined to do so.
- 5.6 Members are asked to note that the majority of the £1,900 per annum spent on landscaping maintenance and waste disposal would be a non-cashable saving to the council if the scheme goes ahead as it represents only a small percentage of a street services team’s time.

Risk and Policy Implications

- 6.1 Retaining the Deed of Dedication in place will ensure the car park is managed for the public good, but there is a risk that it will continue to be a financial drain on the Council’s resources and that the condition of the car park may leave the Council exposed to third party claims for damage or injury.
- 6.2 Surrendering the Deed of Dedication will mean that the precinct owners will be able to choose how to manage the car park and landscaped areas.

It would be speculation to consider how the owners might apply their control

over the car park, but they are unlikely to prohibit or restrict public use, or to increase customer inconvenience, in conjunction with the shops and GP Practice. They would be free to restrict or to prohibit use for other purposes, eg time limits, with the possibility of enforcement measures in place. There is also a likelihood that the costs of car park maintenance will be passed on to the tenants through the service charges on the precinct.

- 6.2 It is unlikely that the owners would seek to implement pay and display charges. Although this cannot be completely ruled out as a possibility, it is in the owners' interests to ensure maximum convenience to shoppers, whilst discouraging uses of the car park that make it more difficult for shoppers to access the precinct.
- 6.4 It appears that the car park is routinely and regularly used by local residents and, presumably, by staff and customers of nearby businesses, which will include Cutgate Baptist Church. Depending on any restrictions on parking that might be introduced, this use could be curtailed (eg by the use of maximum parking time limits), although there is nothing to prevent local residents and businesses outside the precinct seeking to negotiate private terms for their use of the car park. There is, however, a risk that members of the community may be unable to use the car park in future for uses other than a shopping trip.
- 6.5 The dedicated area includes part of the landscaping areas. The Council would therefore no longer have the costs of maintaining the landscaping, nor of providing waste management services, but would also lose rights of access and use, which would impact upon, eg the Rochdale in Bloom display.

Consultation

- 7.1 Consultation has taken place with the Spotland & Falinge Ward Councillors and the Township Chair. In accordance with the process for the disposal of Council assets the proposal to surrender the Deed of Dedication must be approved by all four of those members, otherwise the matter will be decided by Cabinet. The approval of three of the consultees has been received. However, approval has been withheld by one member; a summary of the reservations about the proposal is included in the appendix to this report and this report has sought to address the concerns raised. As things stand, the matter now needs to be considered by Cabinet, and this report is to undertake final consultation with, and to obtain key views of the Township Committee before that referral.
- 7.2 Consultation has taken place with:
- Ward Councillors
 - Township Chair
 - Officers in Legal Services, Planning, Highways and Environmental Management.

Background Papers	Place of Inspection
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For Further Information Contact:	peter.gregory@rochdale.gov.uk
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APPENDIX: SUMMARY OF MEMBER RESERVATIONS

Further information requested on just what losing control of the way the car park is managed means.

Concern that there are several excellent small businesses on that site that could become indirectly liable for the expense of maintaining the car park.

There are visitors to the Health Centre that may be unable to park, and there is also regular community activities and services at the church which could also be put at risk if parking is not possible.

Should the land owners subsequently introduce a charge for parking, residents nearby may be inconvenienced by inappropriate parking by visitors to these premises avoiding the fee, or other restrictions.

With the introduction of no waiting restrictions on Edenfield Rd in 2017 this car park was suggested as a suitable place to park for a number of residents who would lose parking near their home.

Please provide breakdown of costs incurred for repair and maintenance in the past five years.