

## **CHESHIRE EAST COUNCIL**

### **REPORT TO PORTFOLIO HOLDER – FINANCE**

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**Report of:** Property Services Manager

**Subject/Title:** Lease renewal of land at Moorside Recreation Ground, Knutsford to the Scout Association Trust Corporation

**Date of Meeting:** 26<sup>th</sup> November 2014

**Portfolio Holder:** Councillor Peter Raynes

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#### **1.0 Report Summary**

- 1.1 The purpose of this report is to seek approval to renew the lease of land (shown edged red on the attached plan) at Moorside Recreation Ground, Knutsford for 25 years.

#### **2.0 Decision Requested**

- 2.1 To serve a Section 25 notice in accordance with the Landlord and Tenant Act 1954 in order to terminate the current lease dated 16<sup>th</sup> January 2001 and made between Macclesfield Borough Council and the Scout Association Trust Corporation and to offer a new lease of the existing demise for a term of 25 years on terms and conditions to be negotiated and agreed by the Property Services Manager and the Head of Legal Services and Monitoring Officer and that the Council's Legal department are instructed to prepare the necessary documentation.

#### **3.0 Reasons for Recommendations**

- 3.1 The land is currently occupied by the 1<sup>st</sup> Knutsford Scout Group under a Lease dated 16<sup>th</sup> January 2001 for a term of 15 years from 1<sup>st</sup> June 1998 to 31<sup>st</sup> May 2013. The previous lease has expired and the tenant is holding over on the existing terms.
- 3.2 The tenant has requested a new lease but has not served the relevant statutory notice on the Council therefore in order to formalise the position and to grant a new tenancy the existing tenancy must be determined in accordance with the Landlord Tenant Act 1954, if the Council takes no action the existing lease continues on the same terms and at the same rent and a new periodic tenancy is created which is not favourable to the Council.
- 3.3 The tenancy has the protection of the Landlord and Tenant Act 1954 therefore the tenant has a statutory right to renew the lease. The Council could oppose renewal of the lease subject to it having statutory grounds to do so, however, compensation could be payable to tenant.

#### **4.0 Wards Affected**

4.1 Knutsford Ward

#### **5.0 Local Ward Members**

5.1 Cllr Peter Raynes  
Cllr Olivia Hunter  
Cllr Stewart Gardiner

#### **6.0 Policy Implications including - Carbon reduction - Health**

6.1 There are no Policy Implications in this matter

#### **7.0 Financial Implications**

7.1 The current rent passing which the Council receives is £150.00 p.a. It is proposed that the rent will be reviewed in line with RPI every five years for the term of the lease.

#### **8.0 Legal Implications (Authorised by the Borough Solicitor)**

8.1 The Localism Act 2011 introduced the General Power of Competence, which allows the Council to do anything an individual can do, provided it is not prohibited by other legislation. These powers have replaced the previous wellbeing powers, however, the use of these powers must be in support of a reasonable and accountable decision made in line with public law principles.

8.2 The Council has the power to grant a lease of the land pursuant to s123 of The Local Government Act 1972 subject to any disposal for 7 years or more being at the best consideration that can reasonably be obtained.

8.3 The General Disposal Consent 2003 authorises the disposal of land for 7 years or more at less than best consideration if the undervalue is £2million or less, if the undervalue is higher than £2million consent to the disposal is required from the Secretary of State.

8.4 The Council has a fiduciary duty at all times to the taxpayers and must fulfil this duty in a way which is accountable to local people.

8.5 All disposals must comply with the European Commission's State aid rules. When disposing of land at less than best consideration the Council is providing a subsidy to the occupier of the land. In such cases the Council must ensure that the nature and the amount of the subsidy complies with State aid rules, failure to comply means that the aid is unlawful and may result in the benefit being recovered with interest from the recipient. If the

occupier receives less than approximately £155,000 (200,000 Euros) in state aid over a 3 year period then the De Minimis Regulation will apply (small amounts of aid are unlikely to distort competition).

- 8.6 The tenant could serve a notice pursuant to s26 of The Landlord and Tenant Act 1954 on the Council and request a new lease, unless the Council can rely on a statutory ground (as set out in the Landlord and Tenant Act 1954) to refuse to grant a new lease the Court would order that a new lease is granted by the Council and if the terms cannot be agreed the Court will decide the terms.

## **9.0 Risk Management**

- 9.1 There are no perceived risk management issues

## **10. Alternative Options**

- 10.0 Not to offer a new lease, however, as the lease is a secure business tenancy the tenant could make an application for a new tenancy and request that the Court determines the terms. The Council can only oppose such an application if it has statutory grounds (under s30 of the Landlord and Tenant Act 1954).

## **11.0 Access to Information**

The background papers relating to this report can be inspected by contacting the report writer:

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## Scout Hut, Moorside, Knutsford

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