

Cheshire East Council

Portfolio Holder Decision

Date of Meeting:	23 rd January 2017
Report of:	Property Services Manager
Subject/Title:	Wilmslow Phoenix Sports Club – 99 year lease
Portfolio Holder:	Councillor Peter Groves - Finance and Assets

1.0 Report Summary

- 1.1 Wilmslow Phoenix Sports Club occupy their premises at Styal Road, Wilmslow (demise edged red on the attached plan, shared access coloured brown, appendix 1), by virtue of a thirty year lease which commenced March 2003.
- 1.2 The club has invested substantially in the site over the years and in order to continue doing so has requested a longer lease to support that continued investment into the future. The club is very well supported and hosts amongst many others the British National Lacrosse Championships, England Lacrosse training and has also hosted Cheshire Hockey Ladies and various ladies hockey tournaments and Wilmslow Town Juniors training and tournaments.
- 1.3 In order to secure the longevity of this club, its fixtures and the continued investment in the buildings and pitches. A longer lease is required as they currently have less than 17 years remaining on their current lease, which isn't enough to secure the necessary funding to keep the premises and pitches in the order required, or to secure the future of the clubs and fixtures currently relying on the facilities.
- 1.4 Therefore, the club is seeking to surrender their existing lease and negotiate a new 99 year lease from the Council, in order to continue to offer the facilities and to secure funding and investment in their facilities into the future.

2.0 Recommendation

- 2.1 It is recommended that the Portfolio Holder agrees to the surrender of Wilmslow Phoenix Sports Club's current lease and simultaneously grants a 99 year lease on terms and conditions to be agreed by the Director of Legal Services.

3.0 Other Options Considered

- 3.1 The grant of shorter leases was deemed not acceptable or attractive enough by the sports club to encourage club members to invest in the club. Freehold disposal was considered but the Market Value of the site is more than the club members are able to pay.

4.0 Reasons for Recommendations

- 4.1 A simultaneous surrender and grant of a new 99 year lease will allow members of Wilmslow Phoenix Sports Club to invest in the club, extend the clubhouse, improve the sports pitches and protect the use of the land for sporting / recreational uses.

5.0 Wards Affected

- 5.1 Wilmslow, Lacey Green.

6.0 Local Ward Members

- 6.1 Cllr Don Stockton

7.0 Policy Implications including - Carbon reduction – Health

- 7.1 The sporting amenities of the local community would be assured by assisting an established, hockey, lacrosse and cricket club to improve and extend the use of the venue by hosting a range of additional facilities and services to form a robust community hub.

8.0 Financial Implications

- 8.1 Granting a new ninety-nine year lease on full repairing and insuring terms would ensure that the costs in maintaining, repairing and insuring the building would be met by the tenant rather than by CEC.
- 8.2 The proposed new rent will be reviewed in line with RPI at the start of the lease and subject to market rent reviews of the land every five years, Tenant's improvements to be disregarded.

9.0 Legal Implications

- 9.1 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.

- 9.2 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.
- 9.3 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 of 7 years or more being at the best consideration that can reasonably be obtained.
- 9.4 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.
- 9.5 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).

10.0 Risk Management

- 10.1 In accordance with legal advice above we perceive there to be no legal risk.

11.0 Background

- 11.1 Wilmslow Phoenix Sports club occupy their premises at Styal Road, Wilmslow (demise edged red on the attached plan, shared access coloured brown appendix 1), by virtue of a thirty year lease which commenced March 2003.
- 11.2 The club requested Landlord's consent to sublet part of the premises to Phoenix Astroturf Ltd, and the sublease was agreed May 2005.
- 11.3 During 1978 Wilmslow Hockey Club was asked by Macclesfield Borough Council to vacate its club house at the Rectory Fields in order facilitate the development of the Wilmslow leisure centre. In return, the Borough Council offered the club land and derelict buildings at Styal Road to lay out new sport pitches and to construct a new club house with new services, all at the club's own cost.

- 11.4 Wilmslow Wayfarers later joined Wilmslow Hockey Club and together became formed the Wilmslow Phoenix Sports Club. Subsequently Wilmslow Lacrosse Club, which occupied land adjoining the Wilmslow Phoenix land, became members of Wilmslow Phoenix and in March 2003 a new lease of the combined area, stated to be 5.78 hectares or 14.282 acres, was entered into with Macclesfield Borough Council.
- 11.5 This lease was for a term of thirty years from the 11th March 2003 at a ground rent for the first five years of £1,125.00 subject to review at five yearly intervals.
- 11.6 Over the years the original club house has been extended and improved, partly with loans from Macclesfield Borough Council and partly funded by Sports Council grants.
- 11.7 A benefactor funded the provision of the astroturf pitch together with fencing and lighting and that has proved the catalyst to a significant improvement in the profile and strength of the club.
- 11.8 The premises now host the British National Lacrosse Championships and are used for England Lacrosse training. They have also hosted Cheshire Hockey Ladies and various ladies hockey tournaments.
- 11.9 The club is seeking to capitalise on this profile and in recent years have undertaken further investment including an extension to the club house, kitchen refurbishment, surfacing of the car park, new drainage of the grass pitches and investment in new equipment. The club estimated that the amount they have invested in the property since 1980 has been in the order of £1,400,000
- 11.10 The largest section remains hockey with 10 regular teams as follows:-

Four men's senior teams
Two men's junior teams
Three ladies' senior teams
One ladies veteran's team

In addition, fifty to sixty juniors regularly train on Tuesday and Wednesday evenings.

The cricket section has expanded from two teams to four (three playing on Saturday and one on Sunday).

The lacrosse runs the following:-

Two men's senior teams
One under 19 team
Three junior teams
Two junior girls' teams

In addition, Wilmslow Town Junior Football Club have some two-hundred and fifty boys and girls playing regularly on the grass and astroturf on week nights and have held tournaments at the club. The club also has links with nearby schools, Wilmslow Preparatory School and Pownall Hall currently use the astroturf pitch, whilst there are ongoing discussions with Lacey Green Primary School and Styal Primary School.

The club also engages with other local sports clubs, being an active participant in the Wilmslow Half Marathon by providing Marshalls, assists with the Wilmslow Round Table bonfire by providing helpers and is seeking to develop links with other sports clubs who might be able to make use of the facilities (as is currently the case with Wilmslow Town Junior Football Club).

There are current discussions to allow Styal Running Club to join the club as an Associate Section.

- 11.11 The club intend capitalising on its profile, facilities and to continue the growth in numbers which have occurred during the last decade. There are well advanced and costed plans for the following investment:-

Additional ladies toilet facilities – planning already exists as part of a previous application – to be undertaken within the next few months – estimated cost £70,000.

Extension to changing rooms/gent's toilets – programmed for the next twelve to eighteen months – estimated cost £150,000.

Extension to former member's club room – programmed for two to three years – cost approx. £100,000.

New equipment store – programmed for 6 months – estimated cost £8,000.

Extension to car park (currently one hundred and five car parking spaces are virtually full every Saturday) – programmed within two years – cost £35,000.

A hockey club viewing stand and knock-up area – programmed eighteen month – cost approx. £30,000.

Resurface astroturf pitch – within the next four years – cost £150,000, fully funded by sinking fund.

The overall cost to be incurred over the next four to five years is therefore in the order of £543,000.

- 11.12 The club advised that the terms of the current lease make further investment unduly difficult and uncertain. The original thirty year lease granted in 2003 has less than seventeen years remaining and in the context of the historic investment which has taken place over nearly forty years, is a concern.
- 11.13 The proposed lease would reserve the absolute right to break at any time should the permitted sporting, recreational use as defined in the lease change at any time during the term.
- 11.14 Cheshire East Countryside Service advised that, “under the QofP and Green infrastructure initiative, they are working on developing green links and opportunities in the area”. They mentioned that there may be an opportunity to review and perhaps re-align the public right of way that crosses the lacrosse/hockey field, as it might be that that particular footpath becomes busier in the future.

12.0 Access to Information

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

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