

**19 September 2017**

**Policy, Projects & Resources Committee**

**Warley Scout Lease – Amendment to Heads of Terms  
Approved at Committee in February 2016**

**Report of:** *John Chance (Section 151 Officer)*

**Wards Affected:** *Warley*

**This report is:** *Public*

**1. Executive Summary**

- 1.1 This report considers amendment of the terms approved at Committee in February 2015. The Amendment is to allow the lease to Warley Scouts to be inside the Landlord and Tenant Act 1954.

**2. Recommendation**

- 2.1 That the Heads of Terms attached at Appendix A (exempt) are amended to allow the lease to be inside the Landlord and Tenant Act 1954.**

**3. Introduction and Background**

- 3.1 The 1<sup>st</sup> Warley Scouts are the oldest scout group in Brentwood being formed in 1909. They currently have 174 registered adult and youth members (2015 Scout census) and occupy the Scout Headquarters known as Eagle Hall built approx. 21 years ago. There are 2 'Beaver Colonies' (6-8 yrs), 2 'Cub Packs' (8-10 yrs), and 2 'Scout Troops' (10-14 yrs) based at the building.
- 3.2 The Warley Scouts occupy the subject property under a 28 year lease from 23 August 1993 and this expires in 2021 (approx 6 years time).
- 3.3 The building was set on fire by vandals in August 2015 destroying the structure and since this time the group has been operating in alternative premises with help from other Scout Groups in Brentwood.

- 3.4 The property needs re-building and as part of this process discussions have taken place between the Scouts and Brentwood Council to agree terms for a new lease with a longer term than that remaining. The increased term will allow more security for the Scouts and enable them to acquire funding if required .
- 3.5 Committee has already approved that the existing lease is surrendered and a new longer lease granted on the terms outlined in Appendix A (exempt) back in February 2016.

#### **4. Issue, Options and Analysis of Options**

- 4.1 At its meeting on 27<sup>th</sup> March 2015 the Councils Asset and Enterprise Committee adopted a 'Disposals at Less than Best Consideration' policy.
- 4.2 This is a disposal at less than best consideration and in order to comply with Council policy and sections 123(1) and (2) of the Local Government Act 1972 it is necessary to undertake an assessment of the extent to which the organisations activities contribute towards achieving the Council's aims and objectives. In undertaking the assessment it is also necessary to:
- Include a copy of the organisation's constitution and three years of accounts.
  - Set out the extent to which the organisation is proactive in seeking to share and make available the assets to other community and voluntary sector uses on a not for profit basis
  - A recommendation as to the length of any discount
  - Confirmation that the organisation will submit its activities and accounts on an annual basis or when required by the Council.
- 4.3 The assessment was previously set out in the original report put before Committee on 17 February 2016.

#### **5. Reasons for Recommendation**

- 5.1 That a new lease for the Scouts be put in place on the basis outlined in Appendix A (exempt) to provide continuity.

#### **6. Consultation**

- 6.1 No formal consultation has been undertaken regarding the proposed rebuilding works.

## **7. References to Corporate Plan**

- 7.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 7.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

## **8. Implications**

### **Financial Implications**

**Name & Title: John Chance – Finance Director (Section 151 Officer)**

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- 8.1 Where a lease is granted inside the Landlord and Tenant Act 1954 the Council will only be able to take back a property under certain instances, the most common of which are for the Council's own use or for redevelopment.
- 8.2 If the lease is taken back by the landlord at the end of the term or by way of a break clause, compensation is payable (one or two times the Rateable Value) to the tenant if the lease is inside the Landlord and tenant.
- 8.3 If a lease is outside the Landlord and Tenant Act 1954 the tenant does not have any automatic renewal rights and a property can be taken back without specific grounds needing to be proved or compensation being paid.
- 8.4 Compensation will also be payable in this instance if the Landlord's break clause is actioned and the lease is terminated in this way.

## **Legal Implications**

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- 8.5 Relevant in the event of a proposed disposal of a lease interest at less than best consideration or market value, the General Disposal Consent (England) 2003 provides there is no need to seek the specific consent of the Secretary of State provided that the purpose for which the interest in the land is being disposed of by way of the lease is likely to contribute to the “promotion or improvement” of the economic, social, or environmental well-being of the area and the difference in unrestricted value of the lease of the land and the actual price paid for the lease (if any) is not more than £2 million. Government guidance (Circular 06/2003) states that ‘In determining whether or not to dispose of land for less than the best consideration reasonably obtainable, and whether or not any specific proposal to take such action falls within the terms of the Consent, the authority should ensure that it complies with normal and prudent commercial practices, including obtaining the view of a professionally qualified valuer as to the likely amount of the undervalue’.

**Other Implications** (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

- 8.6 None

## **9. Background Papers**

- 9.1 See Appendix A (Exempt)

## **10. Appendices to this report**

Appendix A - Heads or Terms (Exempt)

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