

2 November 2015

Policy, Finance & Resources Committee

Shenfield Scout Lease

Report of: *Russell Clinker, Senior Asset Manager*

Wards Affected: *Shenfield*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the grant of a new lease to the 1st Shenfield Scouts for their Scout Hut in Shenfield Road.

2. Recommendation(s)

- 2.1 That a new lease be granted in accordance with the Heads of Terms set out at Appendix B.**

3. Introduction and Background

- 3.1 The 1st Shenfield Scouts formed in 1909 occupy the Scout Hut (built by the Scouts) under a lease dated 1st January 1980 and also a small area of land to the rear of the property under a separate lease dated 1st January 1981. The Scouts have been in occupation of this site since 1951.
- 3.2 The lease to the scout hut has expired and the Scouts are being invoiced for £10 p.a. rent as mesne profits. The lease of the land to the rear of the property has also expired and the Scouts are being invoiced for £30 p.a.
- 3.3 A valuation of the property has been undertaken by the Council's agent and is contained in **Appendix A**.
- 3.4 Delegated authority was sought from the Head of Localism and Partnership in consultation with Chair/Vice Chair of the Asset, Infrastructure and Localism Panel and the Ward Members on the provision of a new 25 year lease at £100 p.a. in March 2013

- 3.5 Since being advised of the Council's offer, the Scouts have secured funding to renew the roof to the hall and completed these works in August 2013 and requested a lease term of 35 years. Heads of Terms have been provisionally agreed in respect of the grant of a new lease to 1st Shenfield Scout Group and The Scout Association Trust Corporation which are generally in accordance with the terms granted last year to 3rd Brentwood Scout Group and The Scout Association Trust Corporation. In this way the Council can take a consistent approach to its dealing with this important community organisation.

4. Issue, Options and Analysis of Options

At its meeting on 27 March 2015 the Council's Asset and Enterprise Committee adopted a Disposals at Less than Best Consideration Policy.

The Heads of Terms provisionally agreed for a new lease to 1st Shenfield Scouts now provide for a 35 year lease at a discounted rent of £100 per annum. This is not a disposal at 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 organisation's 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.

At **section 8.0** of this report the Monitoring Officer sets out the legal implications relating to disposals at less than best consideration. 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 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'.

The current market annual rental value of the property has been assessed at £14,400 per annum.

The capital value of the property has been assessed at £165,000.

The rent proposed by the 1st Shenfield Scouts is £100 per annum.

The undervalue is £14,300 per annum.

The Scout Association calculate a total contribution per person (Adult Leaders/Helper) of £3,488.40 (If paid at first step Locally Qualified NJC rates of £10.20 an hour). Shenfield Scouts have fourteen adult Leaders and Helpers giving a calculation of 14 @ £3,488.40 = £48,837.76 per annum.

The valuers report and assessment of the extent to which the organisation's activities contribute towards achieving the Council's aims and objectives can be found at **Appendix A and C** of this report.

5. Reasons for Recommendation

- 5.1 That a new lease for the Scouts be put in place to ensure continuity of accommodation for the Scout Group.

6. Consultation

- 6.1 Extensive consultation has taken place with 1st Shenfield Scouts to provisionally agree the terms for a new lease.

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

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- 8.1 The rental income is at less than best consideration but an assessment of the extent to which the organisation's activities contribute towards achieving the Council's aims and objectives suggests that the 1st Shenfield Scouts makes a significant contribution in enhancing and supporting our local community.

Legal Implications

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The Council can grant a lease at an undervalue if the disposal comes within a consent issued by the Secretary of State. Under section 123 of the Local Government Act 1972 the Council is required to obtain the best consideration reasonably obtainable where a lease is over 7 years unless, in the case of a lease given at an undervalue, the particular disposal is covered by the Secretary of State's consent. Under the Local Government Act 1972: General Disposal Consent (England) 2003, there is no need to seek the specific consent of the Secretary of State provided that the purpose for which 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'. This will enable the Council to demonstrate that it has adopted a consistent approach to decisions about land disposals by carrying out the same step by step valuation process on each occasion, including ascertaining precisely how much of an undervalue is being given in any particular case, and therefore that it has acted reasonably.

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

None.

9. Background Papers (include their location and identify whether any are exempt or protected by copyright)

9.1 None.

10. Appendices to this report

Appendix A - External Valuation .

Appendix B - Heads of Terms.

Appendix C - Assessment of the extent to which the organisation's activities contribute towards achieving the Council's aims and objectives.

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