

Agenda Item 57.

TITLE	Appropriation of Public Open Space and Lease to Yellow Brick Nursery at Chalfont Pavilion
FOR CONSIDERATION BY	The Executive on 24 September 2015
WARD	Hillside
DIRECTOR	Graham Ebers, Director of Finance and Resources
LEAD MEMBER	Philip Mirfin, Executive Member for Regeneration and Communities

OUTCOME / BENEFITS TO THE COMMUNITY

Appropriating the Public Open Space will permit completion of the lease without in any way hampering public access to the recreation ground as the land enclosed was scrub land to the rear of the former pavilion building.

Granting a 20 year lease will secure the continued operation of a valued nursery care provider on the site.

RECOMMENDATION

The Executive consents to the appropriation of the public open space including the building shown hatched on the attached plan and to the granting of a 20 year lease of Chalfont Pavilion to Yellow Brick Nursery on a full repairing & insuring lease, at a commencing rent of £6,500 per annum.

SUMMARY OF REPORT

The prospective tenant has occupied the property since the early 1990s under a licence agreement whereby they pay a hire charge and the Council maintains the building in full. The licensee now wishes to take a 20 year lease of the property as they secured SureStart funding and invested privately to extend and enhance the building. The proposed lease will give the tenants full responsibility for the repair and maintenance of the building and are also required to carry out approximately £50k of enhancements to the property. The tenants will also pay the Council a rent of £6,500 per annum, subject to upward only review every 5 years.

The tenant has raised the possibility of moving the existing footpath (shown crosshatched on the plan) approximately one meter to the west and erecting a secure fence around the access to the nursery. This footpath forms part of the open space so consent is sought to appropriate this area as well.

Background

An area of open space was initially enclosed when the nursery opened in the building in the early 1990s, but the building and the area of open space from which the public was denied access was extended in 2012. It was not immediately apparent that the area was part of the public open space but now that it has been confirmed that it is, Executive consent is required to regularise the matter, and the lack of consent is an impediment to the grant of the lease.

The land in question is no longer required for open space purposes.

The prospective tenants currently hire the building on an all-inclusive basis with the Council responsible for carrying out all repairs, paying the business rates, cleaning and maintaining the building. However, there is an element of obsolescence apparent due to lack of maintenance, albeit that the building is fit for purpose and Ofsted approved, but one must bear in mind that it was designed as a sports pavilion rather than a nursery, and considerable amounts of work are now required to the older part of the building to take it up to a standard whereby it will be of beneficial use to the tenant for the next 20 years.

The tenant also wishes to enter into a shorter term agreement for use of a terrapin for early years children at Hillside primary school, but is unwilling to complete legal formalities at Hillside until they have consent for their lease at Chalfont, as they advise that the Hillside unit is not feasible as a standalone nursery. The grant of this lease within the grounds of Hillside Primary School is within delegated authority.

Analysis of Issues

The appropriation of the public open space is established on the ground and there have been no objections. Once Executive consent to the appropriation has been given, the appropriation of the land will be advertised locally for two consecutive weeks, explaining why the land is being appropriated and inviting objections. Whether WBC proceeds to appropriation has to then be decided by a third party not related to the Directorates seeking consent. The third party has to be mindful of but not bound by any objections received.

The Property is the former sports pavilion at Chalfont Way which has been used exclusively daily on a hire charge rate under licence by the proposed tenant, Yellow Brick Nursery, for some 15 years. The building was recently extended with the extension being funded partly by the tenant and partly via a SureStart grant. Following said investment, the tenant has asked for a 20 year lease to give security of tenure and reflect the investment made in the building. The property is under-used as a pavilion, and a separate WC has been provided for users of the sports fields and tennis courts, and which will continue to be available to sports users.

Terms have provisionally been agreed for a new lease to Yellow Brick Nursery for 20 years on a full repairing and insuring lease and at a rent of £6,500 per annum.

The prospective tenant has agreed to carry out works to the building to enhance its use as a day nursery including upgrading the heating system at a cost of £27,000, and general works to upgrade the building such as the provision of new rainwater goods, at £16,000. Should the tenant so require, the additional security fencing will also be paid

for by the tenant as currently the building is accessed via a public path which is apparently unsuitable from a safeguarding perspective.

The tenant's contribution towards the building works was some £68,000 of own funds; the remainder of the cost of completing the works was a SureStart grant secured by the tenant and for which the Council was ineligible.

The Council currently spends in the region of £15,000-£20,000 per annum maintaining the building under the hire agreement with the provision of heating and hot water being a particular issue given the tenant's use of the building and bearing in mind the fact that the building was built for use as a sports pavilion. There has also been an on-going issue with low level vandalism which is an on-going financial drain. As landlord, the Council is responsible for the business rates at some £3,000 per annum. All of these costs and obligations will pass to the tenant on completion of the lease.

The net benefit to the Council of granting the lease will be in the region of £30,000 per annum.

The nursery also provides free childcare places for children from ages 3 upwards though legislation regarding the provision of 'free' nursery places is currently under review nationally and is discretionary.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	(£30,000)	Yes	Revenue
Next Financial Year (Year 2)	(£30,000)	Yes	Revenue
Following Financial Year (Year 3)	(£30,000)	Yes	Revenue

Other financial information relevant to the Recommendation/Decision

WBC will no longer be liable for the repair and maintenance of the building.

Cross-Council Implications

The provision of childcare has implications for Children's Services.

List of Background Papers

None

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