

## **SOUTH STAFFORDSHIRE COUNCIL**

### **ASSET SCRUTINY PANEL – 19TH JANUARY 2023**

#### **PROPOSED LEASES OF COMMUNITY LAND AND BUILDINGS – DELEGATED AUTHORITY**

#### **LEAD CABINET MEMBER – COUNCILLOR ROGER LEES, LEADER OF THE COUNCIL**

## **PART A – SUMMARY REPORT**

### **1. SUMMARY OF PROPOSALS**

- 1.1. The Council own land and buildings throughout the District which currently are used for community purposes and are leased to Parish Council's and local community groups. The land is used for recreation purposes usually by local community sports clubs or community associations for the benefit of local residents on a "not for profit basis". The land is leased out at peppercorn or nominal rents for long terms up to 99 years with no break clauses. The report sets out the further details of the land and buildings and details of the leases.
- 1.2 A number of these leases are coming to the end of their terms and this report details recommendations on approvals on how to proceed with lease renewals or any new leases.

### **2. RECOMMENDATIONS**

- 2.1 That Members delegate authority for the granting of renewals of the current leases and the granting of new leases for community purposes, for terms in excess of 5 years at peppercorn or nominal rents only, which is to be delegated under Part 3 (0) (2.6) of the Constitution to the Corporate Director Finance and Resources.
- 2.2 Members agree that any renewals or new leases at a peppercorn or nominal rent will contain additional clauses to protect the Council's interests.
- 2.3 If Members agree to the granting of a new leases that Members delegate authority to the Director of Legal and Governance to execute all documents necessary in this connection.

### **3. SUMMARY IMPACT ASSESSMENT**

POLICY/COMMUNITY IMPACT	Do these proposals contribute to specific Council Plan objectives?	
	Yes	• Vibrant Communities

	Has an Equality Impact Assessment (EqIA) been completed?	
	No	Not required
SCRUTINY POWERS APPLICABLE	Yes	Asset Scrutiny Panel
KEY DECISION	No	
TARGET COMPLETION/ DELIVERY DATE	31 January 2023	
FINANCIAL IMPACT	Yes	The main body of the report in section 4. outlines the financial impact of the proposals to the Council.
LEGAL ISSUES	Yes	<p>s123 of the Local Government Act 1972 &amp; S1 of the Localism Act 2011.</p> <p>In terms of decision making, this will be delegated to the Corporate Director Finance and Resources.</p> <p>Under s123 of the Local Government Act 1972 the Council has a statutory duty if we dispose of land to be at the best consideration – Legal advice will be provided to ensure that the requirements of s.123 are met.</p>
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	The report sets out the alternative options in section 5.
IMPACT ON SPECIFIC WARDS	Yes	All wards within the District.

## **PART B – ADDITIONAL INFORMATION**

### **4. INFORMATION**

- 4.1 The District Council granted and/or are successors in title to long leases to Parish Council's and community associations of leases with long terms in excess of 5 years at peppercorn or nominal rents of £1 per annum or less. Such leases are for the benefit of local communities and are often parish playing fields with/or for community buildings.
- 4.2 In the majority of these leases the tenant has granted underleases to local sports clubs such as football, cricket, bowls, tennis etc and/or for community uses such as allotments. The granting of underleases requires the consent of the District Council under the terms of the lease and therefore we have legal control over the use of the land going forward.

- 4.3 The leases make the tenant responsible for all the costs related to maintaining the land and/or buildings erected on the land and therefore there are no costs related to the leases for the Council.
- 4.4 The under leases will be restricted to a “not for profit basis” and any rents charged will be restricted to cover reasonable running costs only related to the use and maintenance of the land and/or buildings.
- 4.5 The existing leases are old and all in the case of new leases they will reflect updated terms consistent with a modern lease of this type.
- 4.6 As the term is for a long period the new leases will contain terms to protect the Council’s long-term interests. Following advice from the Director of Legal and Governance, the Council’s position will be protected by the alienation provisions within any new lease which will also tied into the permitted use which will be specific and restrictive. If the Parish at any future date try to charge commercial rents for the land then these provisions will allow the District to share any profit accordingly as our consent will be required.
- 4.7 All the existing leases are under the provisions of the Landlord and Tenant Act 1954 and more specifically Sections 24-28 which provide security of tenure for the tenants. The tenant has a legal right to renew their existing leases on the same terms and conditions and if required can apply to the courts who will grant a new lease unless the Council are able to prove one of the statutory grounds for possession. It is extremely unlikely that the Council will be able satisfy the conditions of one of the statutory grounds. The Council are therefore legally obliged to grant a new lease to the tenants in excess of 5 years due to the terms of the original leases.
- 4.8 Open Space Disposal Notices will be required for any new leases on the basis that the existing leases will be renewed and this will be a fresh disposal under Section 123 of the LGA 1972. This will provide an opportunity for any persons to provide a written objections which will be considered prior to any new leases being granted.
- 4.9 Any existing under leases will end on or before the last day of the head lease. Therefore any new under leases granted to the existing or new tenants will require the Councils formal written consent and therefore the District Council will retain control over all prospective new tenants. The Parish Councils or the Community Associations will be responsible for any costs related to the preparation of any underleases.
- 4.10 Under Section 123 of the Local Government Act 1972/ Best Value, this provides a duty for the Council to comply with the best value considerations that any disposal should be at “best consideration”. The Parish Council will be under the same obligations as this Council in terms of their disposals (underleases) in that they will need to comply with the provisions of s123 Local Government Act 1972. This means that both SSDC and the Parish are obliged to seek best value for any disposal. Any disposal at an undervalue needs consent of the Secretary of State. Land held under s123 has the benefit of the Secretary of State’s general consent issued in 2003 which

removes the need to obtain specific consent to transactions where the undervalue is two million pounds or less and the disposal will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area.

- 4.11 Currently Part 3 (0) (2.6) of the Constitution approved by the Council authorises the *acquisition, reuse, appropriation and disposal of the Council's land and buildings, in consultation with the Corporate Leadership Team, together with the granting or taking assignment or surrender of leases (not exceeding 5 years), tenancies, licences, easements, wayleaves and variations of rent of the Council's land and buildings*".

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

- 5.1 If Members opt to grant new leases for community land/buildings to the Parish Council or Community associations it will be consistent with the Council's Plan of working with to provide vibrant communities.
- 5.2 Any existing under tenants are local community-based groups and will be protected if the proposals are accepted. They will all receive new leases reflecting their specific requirements.
- 5.2 The existing tenants will be responsible for all the District Council's reasonable costs in the preparation of the legal documentation.

6. PREVIOUS MINUTES

None

7. BACKGROUND PAPERS

None

8. Appendices

None

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