

**From: Gary Cooke – Cabinet Member for Corporate and Democratic Services**

**Rebecca Spore – Director of Property and Infrastructure Support**

**To: Policy and Resources Property Sub Committee – 27<sup>th</sup> March 2015**

**Decision No: 15/00025**

**Subject: Approval to enter into new lease for West Kingsdown Children’s Centre**

**Classification: Unrestricted**

**Past Pathway of Paper:**

**Future Pathway of Paper:**

**Electoral Division: Sevenoaks North East**

**Summary:** This report seeks approval to enter into a new 99 year lease with Rochester Diocesan Board of Education.

**Recommendation(s):**

The Property Sub-Committee is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to enter into a new lease for the West Kingsdown Children’s Centre and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction.

**1. Introduction**

1.1 West Kingsdown Children’s Centre was created within refurbished accommodation at West Kingsdown Church of England Primary School in 2010 / 11. Most of the school is currently owned by the County Council. The school is scheduled to convert to an Academy on 1<sup>st</sup> April 2015.

1.2 Prior to the proposed conversion, the Diocesan Board are anxious to complete a longstanding Statutory Transfer of buildings and tar-paved areas at the School, in accordance with the School Standards and Framework Act 1998. The Centre is located within the buildings which are to transfer to the Board, and the Board are heavily resisting the County Council from retaining the freehold interest in the accommodation occupied by the Centre.

1.3 The Board have indicated they will grant a long lease to the County Council to enable the Centre to remain operational upon completion of the Transfer. A long lease is desired, to ensure that the Government’s funding used to create the Centre is safeguarded. The Board have indicated that the Department for Education could direct the County Council to take a lease,

having regard to a recent situation in respect of a similar case within the London Borough of Bexley.

1.4 Discussion with officers at the London Borough of Bexley confirmed the DfE had signalled its intent to make a direction against Bexley to take a lease from the Diocese. Whilst no formal order was ever made it may be that a rejection of this lease proposal could result in the matter being referred by the Diocese to the Department for Education for determination.

1.5 The County Council has two options to consider how it proposes to deal with this matter:-

( a ) retain the freehold interest in the Centre, as part of the terms of the Statutory Transfer. This will continue to be severely resisted by the Diocesan Board, who in turn seek intervention from the Department for Education within any dispute,

( b ) include the Centre within the Statutory Transfer and take a leaseback of the Centre, on terms which can be agreed between the Board and the County Council without influence from the Department for Education, which protects the funding used to create the Centre and avoid any financial penalty arising to the County Council should the Centre close within the short to medium term.

1.6 Terms for a possible lease have been agreed with the Board, subject to Member's authority being granted to the principle of taking such a lease.

## **2. Financial Implications**

2.1 The County Council has agreed to pay a rent of a peppercorn per annum, if demanded, throughout the term of the proposed lease.

2.2 The County Council has agreed to bear the Diocesan Board's legal costs upon completion of the lease; these are to be capped at £1,750 plus VAT.

## **3. Bold Steps for Kent and Policy Framework**

3.1 The taking of the lease will enable the Centre to remain operational and within the County Council's control, with the following benefits:-

- ensure all pupils meet their full potential,
- shape Education and skills provision around the needs of the Kent economy,
- improve services for the most vulnerable people in Kent,
- support families with complex needs and increase the use of community budgets.

3.2 The proposed decision does not relate to a plan or strategy set out in the Council's Policy Framework.

#### **4. Proposed Lease Terms**

4.1 The Diocesan Board have agreed the following lease terms:-

- Term: 99 years, with effect from 1<sup>st</sup> April 2015,
- Rent: a peppercorn per annum, if demanded, throughout the lease term
- the County Council to reserve pedestrian and vehicular rights of way to the Centre, to accord with existing arrangements on site, together with car parking,
- the County Council to be responsible for external and internal repairs and decorations to the Centre,
- if not separately serviced, the County Council to contribute to the Board's utility costs ( precise proportion to be assessed prior to completion of the lease ),
- the County Council to insure the Centre, and its contents,
- the County Council to be permitted to use the Centre for its operational purposes, provided such purposes are reasonably compatible with an adjoining CE Primary School,
- the County Council not to assign, sublet, part with possession or share use of any part of the Centre without the Board's consent, such consent not to be unreasonably withheld or delayed,
- all other terms to be in accordance with a standard full repairing and insuring lease, as prepared and agreed between both parties Solicitors.

4.2 Entering into the proposed lease will maintain the presence of the Centre within the School grounds, with no significant additional costs being incurred by the County Council.

4.3 The County Council will be taking a long lease of the Centre, rather than retaining ownership of the freehold of the accommodation. The length of the lease will protect the Government's funding used to create the Centre. The length of the lease can be regarded as a "virtual freehold" of the premises.

4.4 No equalities implications are anticipated in respect of the taking of the lease.

4.5 The County Council's Education and Young People's Services team will be responsible for continued daily management and operation of the Centre upon completion of the proposed lease.

4.6 Members are asked to note that as detailed above and following their experiences in the London Borough of Bexley, the Diocese could seek to ensure their preferred interest in the site through representations to the DfE which may result in the County Council being directed to enter into a lease. The County Council may or may not wish to mount a legal challenge in this eventuality.

## 5. Conclusions

The taking of the lease will enable the School to convert to an Academy on 1<sup>st</sup> April and ensure that the County Council can continue to operate and maintain a Children's Centre at this location, with no material detriment to the County Council's property portfolio. Use of the premises as a Children's Centre will not be unduly restricted, providing an opportunity for the County Council to use the accommodation for other statutory functions should the Centre ever close, provided such uses are reasonably compatible with the adjoining CE Primary School.

## 6. Recommendation(s)

### Recommendation(s):

**The Property Sub-Committee** is asked to consider and endorse, or make recommendations to the Cabinet Member for Corporate and Democratic Services on the proposed decision to enter into a new lease for the West Kingsdown Children's Centre and for the Director of Property and Infrastructure Support to finalise terms and complete the transaction.

## 7. Contact details

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## 8. Background Documents

**Appendix 1 – Record of Decision**