

From: Peter Oakford, Deputy Leader and Cabinet Member for Finance,
Corporate and Traded Services

Rebecca Spore, Director of Infrastructure

To: Policy and Resources Cabinet Committee - 15th May 2024

Decision No. 24/00029

Subject: Grant of Long Lease to Sheldwich Primary School for
operation and use of part of the County Council's Retained
Land at Sheldwich Primary School.

Classification: Non-Exempt

Past Pathway of Paper: Published on Forward Plan

Future Pathway of Paper: Cabinet Member Decision

Electoral Division: Swale East

Is the decision eligible for call-in? Yes

Summary: This report seeks approval to grant a Lease for over 20 years to Sheldwich Primary School for occupation and use of part of the County Council's Retained Land located within the grounds of the school for development and use of a new Pre-school facility.

Recommendation(s):

The Policy and Resources Cabinet Committee is asked to consider and endorse or make recommendations to the Deputy Leader and Cabinet Member for Finance on the proposed decision to:

- (a) The County Council granting a new lease of land at the Primary School of a term in excess of 20 years,
 - (b) Delegate authority to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services to take necessary actions, including but not limited to entering into relevant contracts or other legal agreements, as required to implement this.
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1. Introduction / Background

- 1.1 Kent County Council is the freehold owner of land and buildings at the Primary School. Most of the County Council's land and buildings at the school has been

leased to Sheldwich Primary School (an Academy Trust) under the terms of a standard 125-year Academy Lease, following the school's conversion to an Academy in September 2011.

- 1.2 The County Council retained land out of the Academy lease, as this area was not held for nor used by the Academy at the conversion date. The retained land was, at the conversion date, leased for use by a third-party pre-school provider who has since vacated the site.
- 1.3 In 2015 and at the request of the County Council's Education Directorate, the Academy Trust was asked to provide a pre-school facility on the site, using the County Council's retained land for this purpose. A sub-20-year lease term was originally negotiated with the Trust.
- 1.4 The Trust has since spent a considerable sum in refurbishing a demountable building located on the County Council's retained land, which has resulted in a successful pre-school being established at the site. However, the demountable building is now reaching the end of its economic life and the Trust has started to plan the future of its Pre-School operation to ensure it can remain viable.
- 1.5 The Trust plans to erect a new building for the Pre-school and retain the existing demountable building for their extended operational requirements, namely a breakfast club and after-school club, which are provided from their assembly hall. The Trust has appointed its consultants to advise on the best location for such a new pre-school setting within the site; three locations were initially identified for such a facility though having regard to tight site constraints, the most appropriate location for the setting is on a site of approximately 190 square metres, half of which falls within the existing Academy lease demise and the other half falling within the County Council's retained land.
- 1.6 The Trust's existing Pre-school operation is locally well supported and there is likely to be an increasing demand for pre-school places from the public, due to recent increased entitlements for funding as announced by the Government.
- 1.7 Having regard to the anticipated costs of providing a bespoke permanent pre-school building at this location, the Trust will require a lease term of more than 20 years on the remainder of the land required for the pre-school facility. The reason for this is that prospective funders of a new pre-school building could require a lease in excess of 20 years. Depending upon the investment requirement, the proposed lease term required could exceed 30, even 50 years.
- 1.8 Granting a long lease of part of the County Council's retained land will not prejudice any opportunities for the County Council's retained land. The residue of the retained land will be offered for use by the Trust for its breakfast club and after school club, subject to an appropriate lease term and rental.

2. Proposed Terms of the New Lease

- a) a lease term in excess of 20 years, together with rights of access thereto,
- b) a rent to reflect prevailing market ground rents with periodic reviews,
- c) the Trust to be responsible for all repairs and maintenance of the new Pre-school facility,

- d) the Trust to be responsible for maintaining insurance cover in respect of the new Pre-school facility,
- e) the Trust to be responsible for payment of all utilities, running costs, business rates, taxes, and all other outgoings in respect of the new Pre School facility.
- f) the Trust to use the land only for development and use of a Pre-school and ancillary purposes thereto.
- g) The lease to be capable of determination by either party in the event of It no longer being required for Pre-school uses.
- h) the granting of the lease to be conditional upon the Trust securing all necessary consents from the DFE to surrender part of their existing lease and enter into a new lease, together with securing planning consent for their proposals and funding for a new permanent Pre-school building.
- i) Any other terms as may be agreed between the County Council and the Trust and recommended for authorisation to the Director of Infrastructure.

3. Options considered and dismissed and associated risk.

3.1 Three Options were considered by the Trust's consultants for the location of a permanent Pre School building:-

3.1.1 Land currently used part for the Trust's soft play requirements and part for the existing Pre School setting – this is the preferred option as it is the closest to the existing Pre School setting, and costs of relocating climbing apparatus on soft play area will be less prohibitive than other options. This is the option being taken forward.4.1.2The main car park within the Trust's existing Academy Lease – this was not favoured due to limited connections to existing services, loss of car parking spaces which cannot be easily replaced on site elsewhere and close proximity to local vehicular movements within the residue of the car park.

3.1.2 Adjacent to trees located on southern boundary of School within Trust's existing Academy Lease – this is not favoured due to high costs of connecting to existing services, associated groundworks, loss of mature trees, provision of new hard surface access and circulation routes and risk of trespass / vandalism due to secluded location of a building in this location.

3.2 KCC is not required either statutorily or contractually to lease its land to the school. It could market the site for lease to another provider. In this instance however given the preschool use by the school and that the site's location may cause letting to be difficult, letting to the school was considered the preferred option.

4. Financial Implications

4.1 Each party to bear its own costs upon completion of the new lease. A market rent to reflect prevailing ground rents, with periodic rent reviews.

4.2 The value of the County Council's retained land will be increased as a result of the granting of the lease due to an income stream being generated by a market rental income payable by the Trust for the land required for the Pre School setting. The value of the land will be further increased by granting a separate lease to the Trust

on the residue of the County Council's retained land for the relocated breakfast and after school club function.

5. Legal

5.1 The County Council is the current owner of the land upon which the Pre-school facility is proposed, subject to the existing Academy lease as described above.

5.2 There is no statutory or legal requirement to grant a lease, but the school has requested use of KCC's retained land to develop its pre-school and that the lease arrangement support its long-term plans and funding opportunities.

6. Equalities

6.1 The existing Pre-school facility is in use by the Trust at this location and this will be enhanced by the provision of a new permanent Pre-school building at the site, subject to a long lease being granted for such a development. Supporting the school's plans by leasing it the land it requires will establish a longer-term future for the pre-school and the equality outcomes it already provides.

7. Data Protection Implications

7.1 No Data Protection implications are anticipated by entering into the Formal Lease and therefore a DPIA is not required.

8. Corporate Objectives:

8.1 The proposed decision meets the objectives of "Increasing Opportunities, Improving Outcomes: Kent County Council's Strategic Statement (2015 – 2020) as it will allow the young people of Sheldwich and surrounding villages to maintain access to new pre-school education and training opportunities by the provision of new education facilities at an operational School, albeit with Academy status.

9. Governance

9.1 The Local Member, Mr Lehmann, has been formally notified of the proposed granting of the long lease.

10. Conclusion

10.1 The granting of the proposed long lease will provide the Trust with an estate interest in additional land at the school and enable a newer Pre-school facility to be developed and brought into operational use.

Recommendation(s):

The Policy and Resources Cabinet Committee is asked to consider and endorse or make recommendations to the Deputy Leader and Cabinet Member for Finance on the proposed decision to:

- (a) To the County Council granting a new lease of land at the Primary School of a term in excess of 20 years,
 - (b) To delegate authority to the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services to take necessary actions, including but not limited to entering into relevant contracts or other legal agreements, as required to implement this.
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11. Background documents

11.1 Appendix A – Proposed Record of Decision

11.2 Appendix B - Published Equalities Implication Assessment (EQIA)

12. Contact details:

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