

## Wiltshire Council

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**Subject:** RENT REDUCTION FOR STRAFORD SOCIAL CLUB, CHATHAM CLOSE, SALISBURY

**Cabinet member:** Toby Sturgis  
For Strategic Planning (strategic and development management), Property, Waste and Strategic Housing

**Key Decision:** No

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### Purpose of Report

- 1.1 To give authority to regularise the agreement made in July / July 2011 to reduce the rent of the Social Club to £2,000 pa.

### Background

- 2.1 The building was re-built due to redevelopment of the previous location of the Social Club and included re-provision of a Scout Hut (now attached to the Social Club).
- 2.2 The Council granted the Trustees of the Social Club a 25 year lease from August 2010, which specified a rising rent of £6,400 in year one, £10,000 in year two and £15,000 pa thereafter.
- 2.3 It is believed that the rent was set at a commercial rent as determined by an independent valuer. However, the Council no longer holds a copy of any report carried out to assess the appropriate level of rent.
- 2.4 The Lease contains reviews of the rent in line with RPI every fifth anniversary of the term.
- 2.5 Very early in the Lease, the Trustees at the time made representation to the Council that the rent was unaffordable and that that level of rental commitment would potentially result in closure of the social club.
- 2.6 Officers at the time carried out consultation with Corporate Directors and elected Members. A copy of the original briefing note dated 5th May 2011 is enclosed setting out the detail.
- 2.7 Whilst there is no formal deed or agreement on file (either the Council's or the Club's), a rent reduction was agreed between the parties and as a result the Social Club is being charged £2,000 pa. The Council's finance system, SAP, confirms that this is the current rent.

- 2.8 It is believed that, despite the initial briefing note in **Appendix One** stating a temporary arrangement, the reduction was intended to be permanent, i.e. run for the term of the Lease, but there is no correspondence to confirm this.
- 2.9 The Trustees have applied to assign to alternative Trustees. In addition, the Property has been included in the list of buildings to be transferred to Salisbury City Council as part of the bulk community asset transfer package (“Asset Transfer”).
- 2.10 Salisbury City Council has asked Wiltshire Council to formally document the arrangements in advance of the land transfer and are in support of the proposed Deed of Variation.
- 2.11 It is now necessary to address the assignment and rent arrangements in a formal Deed of Variation.

### **Main Considerations for the Council**

- 3.1 The basis and reasoning for the reduction was set out in the original briefing note (attached) and custom and practice, together with past conduct by Wiltshire Council, suggests that the Council have already agreed to the reduced rental (by virtue of charging the tenant the reduced rent for a number of years).
- 3.2 A copy of the accounts for year ending March 2014 have been received and examined. These demonstrate that the tenant would be unable to afford the rent set out in the Lease. A copy of the accounts is enclosed in **Appendix Two**.
- 3.3 To safeguard the Council’s financial position in the future, the Council have the ability to review the financial position of the Social Club every five years. Should the club be in a position to pay the rent specified in the original Lease, the Deed will allow for the rent reduction to be reversed. Following completion of the Asset Transfer, Salisbury City Council will be responsible for managing the Lease and for complying with the terms of the Deed of Variation.

### **Safeguarding Considerations**

4. There are no direct safeguarding issues associated with this decision.

### **Public Health Implications**

5. There is no direct public health issues associated with this decision.

### **Environmental and Climate Change Considerations**

6. There are no direct environmental and climate change issues associated with this decision.

### **Equalities Impact of the Proposal**

7. There are no direct impacts on equality and inclusion issues associated with this decision.

## Risk Assessment

8. Various risks have been identified should the decision be taken or not and summarised below.

### Risks that may arise if the proposed decision and related work is not taken

- 9.1 The following risks have been identified if the decision is not taken:
- 9.1.1 The Council (and Salisbury City Council following the Asset Transfer) and Trust will be exposed to auditory and regulatory risk as the rent currently paid is different to that specified in the Lease.
- 9.1.2 Without documenting the rent agreement, the agreement could be changed at any time.
- 9.1.3 The Property is included in the Asset Transfer to Salisbury City Council and the lack of a Deed of Variation may cause issues with its transfer.
- 9.1.4 The Social Club will be forced to close as the initial level of rent is unaffordable. The building will then have to be returned to the Council who will then be responsible for the costs of maintaining the building until such time as a new tenant can be found or until the building can be disposed of.

### Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

10. The following risks have been identified if the decision is taken.

<b>Risk</b>	<b>Action to mitigate the risk</b>
1. Precedent set for future rent reduction	Custom and practice, together with past conduct suggests this decision has been made already and this decision is to regularise and clarify the situation. Any application to the Council for a rent reduction is assessed on a case-by-case basis.
2. The Trust generate significant "profit" from the venue, having an obligation to pay a reduced rent	The Deed will include the ability for the Council to reserve the rent reduction, should the Social Club report significant profits.

## Financial Implications

- 11.1 Agreeing to reduce the rent to £2,000 pa will result in the landlord (specifically the successors of title, Salisbury City) foregoing £311,400 over the life of the 25 year lease. Any reduced rental agreement will be imposed on Salisbury City Council, as the new landlord, following completion of the Asset Transfer.

- 11.2 Salisbury City Council has asked for the rental agreement to be formalised before completion of the Asset Transfer in January 2017 and have been provided with details of the current rent paid by the Social Club.
- 11.3 Salisbury City Council will be given the opportunity to agree the terms of the Deed of Variation before it is legally completed.
- 11.4 The Council (and Salisbury City Council) will have the ability to recoup some of this with the ability to reverse the reduction should the Social Club be in a position to pay the rent specified in the Lease.
- 11.5 The reduced rent is currently being charged, therefore, there is no revenue pressures created as a consequence of this decision.
- 11.6 The s151 Officer has reviewed this report and confirms the above.

### **Legal Implications**

- 12.1 At present, the terms of the rent reduction is unclear but is believed to be:
- Rent reduction is valid over the life of the Lease (despite the initial briefing note setting out it will be temporary),
  - The five yearly RPI reviews remain in full force
- 12.2 There is no formal agreement between the Council and the Trustees for the rent reduction. A lease is a contractually binding document between the parties and for certainty it is advisable that any variations to the terms of the Lease should be made by a way of Deed.
- 12.3 Although the proposed variation is not technically caught by S123 Local Government 1972 (which requires the Council to dispose of the land for consideration that is the best that can reasonably be obtained), the Council could at the time of the grant of the lease and is still able to dispose of assets at less than best consideration (with the consent of the Secretary of State) if council considers that such a disposal will help it secure the promotion or improvement of the economic and/or social and/or environmental wellbeing of its area. Provided the undervalue of the disposal is 2 million or less "The Local Government Act 1972: General Disposal Consent 2003" permits the council to do this without the need to obtain specific consent from the Secretary of State.
- 12.4 A Deed of Variation is required to formally document the rent reduction and includes a mechanism to increase the rent should the Social Club's financial position improve.
- 12.5 Any agreement let of land and buildings at less than market value has the potential to fall within the scope of State Aid. However, as this project is of a purely local character, it is unlikely to have an effect on inter EU trade and so is likely to fall outside the state aid prohibition. In any event the rent reduction proposed is such that this will falls with the de minimis provisions (i.e. the undervalue in terms of rent over any 3 year period amounts to less than current de minimis limit of 200,000 Euros).

## Options Considered

13. The other options is to reserve the previous agreement to reduce the rent, but this has been rejected as it is considered that the Social Club is not in a position to pay the rent specified in the lease and would be forced to close.

## Conclusions

- 14.1 Agreeing to a reduced rent ensures that the Social Club remains open for the foreseeable future.
- 14.2 It is considered appropriate to regularise the agreement to reduce the rent to £2,000, subject to RPI reviews by way of Deed of Variation.

**Carlton Brand**  
**Corporate Director**

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## Background Papers

The following unpublished documents have been relied on in the preparation of this report:

None

## Appendices

Appendix One - Copy of Briefing Note dated 5<sup>th</sup> May 2011

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## Appendix One - Copy of Briefing Note dated 5<sup>th</sup> May 2011

Thanks Graham.

Mary, Toby,

Some interesting background re. my earlier email that you may wish to consider.

Thanks,  
Carlton

### **Dr Carlton Brand**

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**From:** Creasey, Graham

**Sent:** 05 May 2011 17:13

**To:** Brand, Carlton

**Cc:** Ward, Neil

**Subject:** Stratford Social Club

Carlton

I have tried to keep the note as brief as possible whilst including all the salient information, because I have been involved with this scheme for so long I may have omitted something that is obvious to me but could be confusing for someone who is not that familiar with the matter. SSC is effectively run by a Committee of volunteers and only the Secretary and Treasurer are paid a nominal amount for their services and to cover expenses. We need to keep in mind that if SSC fails the Council could be left with a building that will be extremely difficult to find an alternative tenant and use for.

- 1) Stratford Social Club [SSC] leased premises from Salisbury District Council [SDC]. These premises were extremely dilapidated. The rent was, however, based on turnover and £6500 was being charged.
- 2) The club premises formed part of a larger Council owned site which also included a Scout Hut and was zoned for residential development.
- 3) SDC agreed with Signpost Housing [now Spectrum Housing] that the land would be transferred to them for the development of 27 affordable homes. The land was independently valued [c.£700k] and SDC Cabinet agreed that new community facilities would be constructed by Signpost in lieu of the capital receipt to replace the existing buildings that were demolished to make way for the housing development.
- 4) The new premises were constructed on adjoining land retained by SDC, the ownership of the new premises would, on completion, be transferred to SDC and the estimated cost of the new community buildings was c.£700k.
- 5) SDC agreed to lease the new premises to SSC for a term of 25 years at a commercial rent, which was determined by an independent valuer at £15,000pa.

- 6) In order to ease SSC into the new arrangement it was agreed that the rent would be phased in over the first three years - £6500 year 1 - £9000 year 2 - £15,000 year 3.
- 7) The new building was handed over to Wiltshire Council/SSC in August 2010 and the SSC lease came into force in February 2011. [The delay was due to land registration issues identified by the Land Registry which needed to be resolved before the lease could be completed].
- 8) The Treasurer and Secretary approached me recently to express concern about the short-term financial viability of the enterprise. Income was lower and expenditure higher than had been anticipated when the business plan was prepared prior to the lease being signed. Bar takings and other income streams are down, whereas the costs of consumables, provision of utilities, NNDR and other expenses are all significantly more than expected.
- 9) The SSC committee is being proactive in promoting the Club, seeking new room hiring's, increasing membership numbers amongst local residents, organising BBQ's and Fun Days to generate increased awareness and interest in the Club. Through Cllr Douglas the building has been offered as a venue for the Area Board meetings and Salisbury City Council already use the facility as a venue for some of their meetings. The Club is still establishing itself as a venue for private social events and room hire for other functions, however the competition in the immediate vicinity is considerable with the Scouts next door, the Rugby Club adjacent and various Church Halls nearby all offering similar facilities to the ones available at SSC.
- 10) The Treasurer advises that the Club runs on a 'shoe string' and although there are sufficient funds available to cover all outstanding debts to the Council, the payment of rent at £6500 and NNDR would leave their budgets dangerously low with little or nothing in their contingency fund to deal with any unforeseen items.
- 11) It is clear from what the Secretary and Treasurer have said, the future of SSC is in jeopardy with income and expenditure at the current levels, with the prospect of the rent being increased to £9000 in a few months time, SSC is unlikely to be able to meet its financial obligations and the enterprise will almost certainly fail.
- 12) From a 'Property' perspective the proposed relatively short-term reduction in the rent would give SSC the opportunity to better establish itself, it will give the Club a period of certainty about the level of rent and it will allow for regular reviews by the Council/SSC to assess how the business is progressing.

If you require any further information please let me know.

Kind regards.

Graham

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