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Report of: Laraine Manley: Executive Director PLACE

Report to: Cabinet (acting as the Trustees of the Oxley Park Charity)

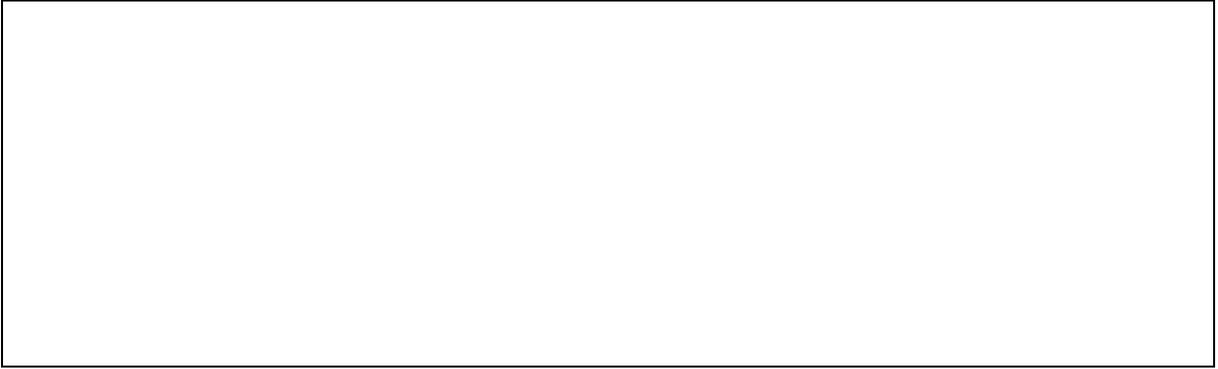
Date of Decision: February 13 2019

Subject: Proposed Surrender and Re Grant of Lease of Stocksbridge Leisure Centre

Is this a Key Decision? If Yes, reason Key Decision:-	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000	<input type="checkbox"/>	
- Affects 2 or more Wards	<input type="checkbox"/>	
Which Cabinet Member Portfolio does this relate to? Culture, Parks and Leisure and Finance & Resources		
Which Scrutiny and Policy Development Committee does this relate to? Economic & Environmental Well-being		
Has an Equality Impact Assessment (EIA) been undertaken?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given?		
Does the report contain confidential or exempt information?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-		
<p><i>“The (report/appendix) is not for publication because it contains exempt information under Paragraph (insert relevant paragraph number) of Schedule 12A of the Local Government Act 1972 (as amended).”</i></p>		

Purpose of Report:

To seek approval of Cabinet, acting as the Trustees of the Oxley Park Trust, to accept the surrender of the existing lease of Stocksbridge Leisure Centre and the grant of a new 30 year lease on the same terms and conditions (save for the Turnover Rent provisions) to 4SLC (For Stocksbridge Leisure Centre, Registered Charity No. 1153527).



Recommendations:

That Cabinet acting for the Council as the Trustees of the Oxley Park Charity in accordance with the powers given to the Council as Trustee under the provisions contained in the Trusts of Land and Appointment of Trustees Act 1996:

1. Accept the surrender of the existing lease of the Stocksbridge Leisure Centre to 4SLC dated 13 July 2015 and the re grant of new lease to 4SLC for a term of 30 years commencing on the day immediately following the date of surrender of the existing lease and on the same material terms and conditions as the existing lease (save for the provisions relating to the Turnover Rent) and in accordance with the terms of this Report and the Surveyor's Report attached in accordance with section 119(1) of the Charities Act 2011.
2. Authorise the Chief Property Officer in consultation with the Director of Legal and Governance to draft and complete all the necessary legal documents in accordance with the agreed terms and those required by the Charity Commission to affect the surrender and re grant of the lease.
3. Authorise the Chief Property Officer to give notice in accordance with section 121 of the Charities Act 2011 in order to notify people in the beneficial area of the proposed transaction with 4SLC.

Background Papers:

Cabinet Report 18th July 2014 and Qualified Surveyor's report 2014 to the Trustees as required by The Charity (Qualified Surveyor's Reports) Regulations 1992. The Scheme dated 15 April 2015 in respect of the Oxley Park Charity at Stocksbridge Sheffield.

Lead Officer to complete:-	
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.
	Finance: Paul Schofield
	Legal: David Sellars
	Equalities: None
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	

2	EMT member who approved submission:	Laraine Manley
3	Cabinet Member consulted:	Cllr Mary Lea, Cllr Olivia Blake
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Paul Billington	Job Title: Director of Culture & Environment
	Date 13 February 2019	

1. PROPOSAL

- 1.1 At the meeting on the 18th June 2014, Cabinet (acting as the Trustees of the Oxley Park Charity) approved the grant of a lease of Stocksbridge Leisure Centre to 4SLC (For Stocksbridge Leisure Centre, Registered Charity No. 1153527) and the lease was completed on 13th July 2015. The term of the lease is 25 years and is on a Full Repair and Insurance basis, with a base rent of one peppercorn together with a turnover rent payable after the tenth anniversary of the commencement of the term ("the Lease"). A copy of the report is attached as Appendix 1 to this report, which also includes a copy of the Qualified Surveyor's Report (as required by s119(1) of the Charities Act 2011) which fully sets out the circumstances leading up the granting of the Lease .
- 1.2 At the time of writing of the 2014 Cabinet Report the Council was awaiting approval from the Charity Commission to the grant of the Lease and changes to the charitable objects of the existing trust. This Scheme was approved on 15 April 2015 a copy of which is annexed to this report. Amongst other things the Scheme allowed for land that was to be the subject of the Lease to be used as follows:
- "to promote the benefit of the inhabitants of Stocksbridge and the surrounding area by the provision of facilities for indoor and outdoor recreation or other leisure time occupation of the public at large in the interests of social welfare and with the object of improving the condition of the life of the said inhabitants"
- 1.3 It also allowed the Trustees of the Oxley Park Trust to lease the land but only in the furtherance of the charities objects. Relying on the Scheme the Lease was completed on 13 July 2015.
- 1.4 4SLC have requested a 30 year lease commencing immediately on surrender of the Lease to assist with bidding for and securing grant funding in the short to medium term. The trust running the leisure centre is making a great success of the venture and they are continuously striving to ensure the sustainability of the centre.
- 1.5 In order to be able to grant an extended term the existing lease must be surrendered and the parties enter into a new lease creating the new term required. It is therefore proposed that the Trustees accept a surrender of the Lease and then grant a new lease for a term of 30 years from the day immediately following the surrender of the Lease on the same material terms and conditions (save for the provisions relating to the Turnover Rent).
- 1.6 The current Lease provides that the Turnover Rent does not commence until 10 years from commencement of the Lease i.e. July 2025. It is intended that this commencement date is preserved in the new lease i.e. that it will commence in July 2025.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The surrender and grant of a new lease will support the continued provision of leisure facilities in the Stocksbridge area for the benefit of the community in accordance with the objects of the Oxley Park Charity.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 The original decision to close the leisure centre in 2013 was widely publicised and the Trustees' intention to grant the lease to 4SLC was also publicised, as required by section 121 of the Charities Act 2011. .

- 3.2 Given the terms of the 2015 Scheme Cabinet, acting as Trustees do not require a further specific consent from the Charity Commission to grant the lease, subject to complying with the other statutory provisions relating to the disposal of charity land, including:

- a) Obtaining a surveyor's report on the terms of the disposal
- b) Advertising the disposal for a period of one month from the date of the notice to allow any representations to be made before approval is considered by Cabinet acting as the Trustees. The original surveyor's report from 2014 advised that given the widespread publicity around the proposed closure and the grant of the lease to 4SLC there was no reasonable prospect of anyone other than 4SLC being interested in taking a lease of the centre.

- 3.3 That report has been reviewed by a Qualified Surveyor and the Trustees are advised that the conclusions and recommendations remain the same.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Financial and Commercial Implications

- 4.1.1 Unless 4SLC continue to use and manage the centre it will need to be demolished. This would result in the loss of a valuable asset used by the local community and involve a cost to the Trustees of Oxley Park, or ultimately, the City Council.

If the proposed longer lease is not granted this may reduce the ability of 4SLC to be able to make bids for grant funding.

4.2 Legal Implications

Oxley Park was acquired originally by Stocksbridge Urban District Council in two conveyances in 1921 and 1925 from Thomas Oxley. This created a charitable trust on the basis that the land would be held on trust "for ever for perpetual use by the inhabitants of Stocksbridge as a

Park or Recreation Ground...”

As referred to above the trust objects were altered with effect from 15 April 2015 as follows:

“to promote the benefit of the inhabitants of Stocksbridge and the surrounding area by the provision of facilities for indoor and outdoor recreation or other leisure time occupation of the public at large in the interests of social welfare and with the object of improving the condition of the life of the said inhabitants”

The Council now holds the land subject to the terms of this trust as altered in 2015.

The granting of the lease constitutes a disposal of the charitable land and must comply with the relevant legal requirements. The overriding principle governing the disposal of charitable land is that the Charity Trustees must be satisfied that the terms of disposal are in the best that are reasonably available to the Charity in the circumstances.

In accordance with the Charities Act 2011 section 119(1) a report dated 10 June 2015 was prepared and officers have confirmed that the position has not changed in that the terms provisionally agreed with 4SLC represented the best that were reasonably available for the Charity. It also advised that given the widespread publicity generated at the time regarding the proposed closure of the Stocksbridge Leisure Centre there was no reasonable prospect other than 4SLC coming forward as in taking a lease of the centre. Officers have confirmed that this remains the position.

The terms of the new lease will as with those of the current Lease (save as to the provisions relating to the Turnover Rent) which ensures that centre continues to provide leisure facilities for local people at affordable prices.

Prior to the surrender and re grant it is necessary for the Trustees to give notice under section 121 of the Charities Act 2011. The notice will advertise the Trustees intentions regarding the transaction. If they fail to give notice the transaction will not be valid.

The transaction can be effected under the terms of the 2015 scheme and does not require Charity Commission consent.

4.3 Other Implications

- 4.3.1 Continued use of the centre supports a number of activities beneficial to the health and well-being of the local community.

5. **ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 Not to grant the new lease:

This has been discarded by officers as unless 4SLC. As the only provider interested in the site continue to use and manage the centre it will need to be demolished. This would result in the loss of a valuable asset used by the local community and involve a cost to the Trustees of Oxley Park, or ultimately, the City Council.

6. REASONS FOR RECOMMENDATIONS

6.1 The proposal to accept a surrender and grant a new lease:

- enables grant funding bids to continue to be made by 4SLC to repair, maintain and improve the Pavilion
- ensures that a valuable asset is retained for use by the local community
- supports the charitable objects of the Oxley Park Trust and 4SLC