



Leicester  
City Council

**WARDS AFFECTED:  
KNIGHTON & THURNCOURT**

**CABINET**

**7 FEBRUARY 2011**

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**GRANT OF LEASE AT A PEPPERCORN RENT  
WILLOWS PRE-SCHOOL MOBILE –  
OVERDALE JUNIOR & INFANTS SCHOOLS  
KIDDYCARE LTD MOBILE – WILLOWBROOK PRIMARY SCHOOL**

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**Report of the Chief Operating Officer**

**1. Purpose of Report**

- 1.1. To report on the provision of new modular facilities for pre-school facilities from a Sure Start grant and the requirement to grant a lease on a peppercorn basis to facilitate this process.

**2. Recommendations**

- 2.1. Cabinet to approve the granting of leases at a peppercorn rent to the Willows Pre-school Playgroup and Kiddycare Ltd.

**3. Summary**

- 3.1. The report outlines the background to the Sure Start grant and reasons for requesting a peppercorn rent.
- 3.2. The legal and general principles for dealing with lettings at nil consideration.

**4. Report**

- 4.1. At the beginning of 2010 following recommendations from an Assessment of Access & Inclusion, the Disabled Children's Service identified that the existing premises for pre-school services provided by private providers at Overdale Junior & Infants Schools and Willowbrook Primary School were no longer viable and required replacement.
- 4.2. The private providers were supported by the Childcare Sufficiency Team to apply to the Sure Start Grants Panel to obtain funding for demolition and replacement and in July 2010 grants of £239,220 (inc VAT) for the Willows and £220,000 (inc VAT) for Kiddycare Ltd were awarded to the providers.

- 4.3. Subsequent discussions have confirmed that in order for the Council to manage the contracts for demolition and replacement, these works need to be commissioned internally rather than by the private providers. As a consequence the mobiles will remain as an asset to the Local Authority but will be leased to the private providers on a peppercorn rent basis with the private providers remaining responsible for the maintenance and repair of the mobiles.
- 4.4. The Strategy Manager Childcare Sustainability & Sufficiency has provided the following supporting information:
- 4.4.1 The authority has a legal duty under the Childcare Act 2006 to ensure there are sufficient nursery education (NE) places for all three and four year old children living in the city, and that parents have a choice of types of provision (i.e. playgroups, day nurseries, accredited child minders and schools). This has led to the development of NE places on schools sites for two reasons: (1) where the school has not F1 class for 3 year olds; (2) there is no other suitable location in the area. The circumstance for working in partnership with Willows Pre-school Playgroup, and Kiddycare relate to these reasons.
- 4.4.2 At Overdale Junior & Infants Schools there is no F1 class and The Willows Pre-School Playgroup has operated from an unused mobile at Overdale Junior & Infants Schools on a local agreement for services since 1997. The provider recently received an Outstanding OfSTED report. The Heads at Overdale Junior & Infants Schools both strongly support the setting which has also developed breakfast and afterschool services on behalf of the school. However, the mobile became unviable and urgently needed replacement.
- 4.4.3 There is also a shortage of NE places in the Thurnby Lodge area, and working with local schools and the Children's Centre it was agreed that the replacement of a mobile at Willowbrook Primary was the only practical way forward. Experienced, good quality NE providers were invited to apply to deliver the service and measured against a detailed specification stipulating levels of experience, quality financial sustainability. Kiddycare, also with an Outstanding OfSTED, was selected by a panel chaired by the Head Teacher.
- 4.4.4 There was no Primary Capital to expand provision at these schools. However, the Sure Start Capital Grant was primarily to support private and voluntary providers to improve access to and quality of childcare provision. This meant that the NE providers themselves applied for the SSG. By doing this Willows Pre-school at Overdale Junior & Infants Schools have been awarded £239,220 capital, and Kiddycare at Willowbrook Primary has been awarded £220,000.

- 4.4.5 There are four other private/voluntary run NE settings on school sites and two delivered by Early Prevention; all had start up funding in the same way through the SSG and none were put out to tender.
- 4.4.6 Neither project could have gone forward without the participation of the private settings. The mobiles are not the property of the provider and a formal lease will ensure that the service and relationship continue to meet the needs of the authority. It is in recognition of their financial contribution and partnership working with the schools and the local authority to meet the Sufficiency Duty that officers are recommending a peppercorn rent is made.
- 4.5 The City Council's general principle for dealing with rents is that all third parties occupying Council assets will pay a market rent to ensure transparency of funding provisions and demonstrate that best consideration is being achieved.
- 4.6 However, under circumstances where a third party has obtained funding to provide the asset it is an established principle that a peppercorn rent will apply for so long as the existing provider provides the service.

## **5. FINANCIAL, LEGAL AND OTHER IMPLICATIONS**

### **5.1. Financial Implications – Nick Booth, Extn. 297460**

- 5.1.1 The letting of these premises at a peppercorn would result in no loss of existing income to the City Council. Where a third party has obtained funding to provide the asset, it is policy to charge a peppercorn rent for so long as it continues to provide the service.

### **5.2. Legal Implications – Zoe Iliffe, Extn. 296342**

- 5.2.1 Under Section 123 of the Local Government Act 1972 the Council is required to dispose of land for the best consideration that is reasonably obtainable in the circumstances. (Leases of 7 years or more are classed as "disposals"). However, the Council is permitted to dispose of land for less than best consideration in certain circumstances under the 2003 General Disposal Consent for land and property ("GDC"). The disposal must be one which will secure the economic, social or environmental well-being of the area in question in order for the disposal of the property to benefit from the GDC.
- 5.2.2 The intention to dispose of the property at less than best consideration on the basis of a one to one transaction without open marketing for purposes set out in this report, will need to be in accordance with the Property Disposal Policy Framework agreed by Cabinet in July 2003. Members will need to be satisfied that the disposal accords with the relevant provisions of the Framework relating to exemptions for 1-1 disposals.

5.2.3 Members will therefore need to ensure that any disposal is consistent with the powers contained in the GDC. The GDC allows local authorities to dispose of assets of less than best consideration to secure social, economic and environmental benefits where it is considered that these benefits will flow from any such disposal. Therefore the Council will need to be satisfied on the basis of the advice contained in this report (and on the information supplied), that the disposal will result in the achievement of the benefits referred to above.

5.2.4 Given that any disposal at less than best consideration will have a financial implication for the Council, the Council will also need to ensure that the Council's general fiduciary duty is complied with in disposing of assets in accordance with the GDC or the Disposals Framework. Any lease documentation will need to contain provisions which will secure the achievement of the benefits set out in this report or the terms subsequently agreed.

5.3. Climate Change Implications

Although these facilities will not have a significant impact on the Council's climate change targets, it should be ensured that the new facilities meet high energy efficiency standards and that users are aware of how to reduce the carbon footprint of these facilities in the way they utilise them.

Helen Lansdown, Senior Environmental Consultant - Sustainable Procurement, Extn. 296770

**6. Other Implications**

<b>OTHER IMPLICATIONS</b>	<b>YES/ NO</b>	<b>Paragraph/References Within Supporting information</b>
Equal Opportunities	NO	
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	
Elderly/People on Low Income	NO	
Corporate Parenting	NO	
Health Inequalities Impact	NO	

**7. Background Papers – Local Government Act 1972**

7.1. None specific.

**8. Consultations**

Childcare Sufficiency & Sustainability

**9. Report Author**

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<b>Key Decision</b>	No
<b>Reason</b>	N/A
<b>Appeared in Forward Plan</b>	N/A
<b>Executive or Council Decision</b>	Executive (Cabinet)