

<b>DECISION-MAKER:</b>	CABINET
<b>SUBJECT:</b>	SCOUTS PREMISES - FREEHOLD SALES TO SCOUT GROUPS
<b>DATE OF DECISION:</b>	19 FEBRUARY 2013
<b>REPORT OF:</b>	CABINET MEMBER FOR RESOURCES
<b>STATEMENT OF CONFIDENTIALITY None</b>	

### **BRIEF SUMMARY**

The report seeks approval to the disposal of up to thirteen Scout site freeholds to the tenant scout groups at a nominal £1. This is the preferred alternative to renewing leases.

### **RECOMMENDATIONS:**

- (i) To approve the principle of the disposal of the freeholds of the scout premises listed in appendix one to this report to the tenant scout groups.
- (ii) To delegate authority to the Senior Manager, Property, Procurement and Contract Management to approve all the disposals of the scout sites for purposes authorised by s.2 Local Government Act 2000 at figures less than best consideration.
- (iii) To delegate authority to the Senior Manager, Property, Procurement and Contract Management after consultation with the Cabinet Member for Resources to approve the detailed disposal terms to the Scout groups and to subsequently negotiate and carry out all ancillary matters to enable disposal of the sites in consultation with the City Services Senior Manager.
- (iv) That the Head of Legal, HR and Democratic Services be authorised to enter into any legal documentation necessary in respect of the sales
- (v) To authorise the Head of Legal, HR and Democratic Services to advertise the proposed disposal of those sites held under the Public Health Acts in accordance with Section 123 Local Government Act 1972, and to report any objections to the Cabinet before taking these sites forward.

### **REASONS FOR REPORT RECOMMENDATIONS**

- 1. Cabinet approval is required to approve disposal of land at less than best consideration.
- 2. Cabinet approval is required to authorise the Head of Legal, HR and Democratic Services to advertise the proposed disposal of the Porchester Road Scout Hut (held under the Public Health Acts) in accordance with Section 123 Local Government Act.

### **ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 3. Do nothing: this would leave the Scouts without long term certainty of occupation and with potential failure to attract grant monies for improvements.

4. Renew Leases: this has proved very protracted over the years and even where leases are granted these will be a compromise and unlikely to fully protect both the council's and Scouts' interests.

**DETAIL (Including consultation carried out)**

5. Leases to Scouts Groups form part of the social property portfolio which is property let to third parties to support a social or service objective rather than to generate income. It is the third party who provides a direct service to the community in support of Council objectives and services. This category is sometimes referred to as "Indirect Service Property", as it supports the delivery of a Council service but is delivered in-directly through a third party. They are managed with that purpose in mind.
6. Scout Groups property is administrated by City Services within the Housing and Leisure portfolio with support from the lettings team and is subject to a strategic overview by Resources portfolio. Receipt of rental income payable would go to the Parks and Open Spaces account codes however, there are none in the case of scout sites. The portfolio responsible for Scout sites is Cabinet Member for Housing & Leisure Services / Cabinet Member for Children's Services .
7. A number of the Scout groups have been holding over in occupation following expiry of their leases. Although the principles of renewing leases has been generally agreed with the Scouts, the discussions have been protracted and often foundered in the attempts to finalise detailed terms.
8. As an alternative to granting leases, the disposal of the freeholds to the tenant Scout groups should present advantages to both sides. It is simpler and quicker than agreeing detailed lease terms. Freehold ownership will allow Scout groups to raise funds for long term investment in the premises whereas occupation by leases may restrict this.
9. To protect the council's interest on the nominal value freehold sales, it will be necessary to reserve pre-emption or "buy back" rights whereby the council will be entitled to buy back the scout sites for £1 in the event there is no longer a scout or other similar community use for the premises. The Scout Groups representative will accept pre-emption rights.
10. Scout groups have never paid rents to the council. The assumption has always been that the sites would remain in Scout use for the long term. Where leases have expired they have generally held over in occupation pending a policy on lease renewals. Currently premises would only revert back to the council, not at the end of leases, but only in the event of a Scout group folding and no replacement being established e.g. Leaside Way, Swaythling. Financially there is no difference to the council whether it grants a lease or proceeds with an outright sale.

11. The proposal to sell freehold to the Scout groups is fully in line with “Community Right to Bid” legislation, as part of the Governments commitment to Community Empowerment, within the Localism Act 2011. The Draft Assets of Community Value (England) Regulations which came into force on 12th October 2012 entitles a “community or voluntary body”, (which includes Scouts) to nominate public or private assets of community value which they may bid for to buy the freehold.
12. By agreeing disposals by negotiation there will be no need to invoke the extensive procedures in the “Community Right to Bid” legislation.
13. A number of Scouts premises have been improved following agreement to licence to Early Years Education and Childcare Services (EYEC). Under the terms of grants from the Department for Education (DFE), the council must guarantee provision of EYEC for 25 years. If demand for EYEC provision ceases at any time in the first 25 years, then the council and the Scout group are not liable to repay the improvement grant. However should demand re-materialise then the premises must be made available again for EYEC provision subject to the premises being in a suitable condition and reasonable terms being agreed. If the EYEC materially breach the Licence terms and as a consequence the Scouts, acting reasonably, terminate the EYEC Licence, then on the understanding that an alternative provider is sought neither the council nor the Scouts will be liable to repay any part of the grant. The disposal terms for the scout sites will include provision to allow the council to nominate pre-schools to occupy such premises under reasonable terms subject to the approval of each Scout Group Executive.

#### **Consultations:**

14. **Senior Manager Streetscene and Community Safety:** Supports freehold sales provided the safeguard to the council as described in paragraph 9 above
15. **Children’s Services:** approves of sales provided safeguards to the council as described in paragraph 13 above.
16. **Planning:** this does not involves a change of use of the premises so no comments
17. **The Southampton Scout Groups** provide adventurous activities and personal development opportunities for around 2500 young people aged 6-25, in Southampton. This includes a significant amount of outdoor activities and skills such as basic camping and survival skills, sailing, canoeing, archery, climbing, shooting, local, national and international camps and expeditions. If it were not for scouting, these opportunities would simply not be available or affordable to the communities served. Some groups have brought scouting to their community for over 100 years.
18. The various Scout Group headquarters are generally situated in deprived areas, in communities where often very few other activities are available. The involvement of the parents of these children and other adults, as leaders and as administrators, means that these communities are given the opportunity to meet regularly and work together. The buildings provide much needed facilities for other community functions, such as family

celebrations, club meetings, charitable events and pre-school. Therefore Scouting in Southampton directly assists in providing community infrastructure and is the embodiment of the principles of the Big Society i.e. “to encourage people to take an active role in their communities”.

19. All this is achieved at virtually no cost to the Council. The Groups are completely run by volunteers from the community who serve to offer the children the benefits of scouting. The cost benefit of this voluntary work in Southampton is estimated to be £995,000 pa. This is based on the equivalent voluntary rate value of £10/hour for youth work.
20. The proposals for the freehold disposals are welcomed by the scout Districts as they will give much needed security of tenure, which will facilitate grant applications and other fundraising to help maintain the buildings which are vital for scouting to operate.
21. The quoted valuation does not include any cost benefit that may be accrued from providing young people with this outlet for their energies and the pastoral care that is offered that could contribute to ensuring society is not burdened with additional antisocial behaviour. Nor does it take into account the benefits to society from providing the young people with a moral code that will see them through the rest of their lives.
22. **Girl Guides:** The paper does not seek approval to disposal of the three girl guides sites in council ownership but similar moves towards disposal of these could happen after the Scout disposals are completed.

## **RESOURCE IMPLICATIONS**

### **Capital/Revenue**

23. There are no Capital or Revenue implications, as the rents received are currently a peppercorn and the disposals are proposed at nil consideration, and buy back would also be at nil consideration.

### **Property/Other**

24. To protect the council’s interest on the nominal value freehold sales, it is necessary for the council to have the benefit within each transfer of rights of pre-emption or “buy back” clauses whereby the council will be entitled to buy back the scout sites for £1 in the event there is no longer a scout or other similar community use for the premises. The Scout Groups representative will accept a pre-emption right.
25. Under the terms of leases and statute, the Scouts as tenants have full health and safety and compliance duties. However as voluntary / community groups there is always a greater risk that they could fail to meet their full compliance obligations. Currently as landlord the council runs a risk by default of being at least partly accountable in the event of the tenants’ non compliance with their lease obligations. The sale of the sites to the scout groups removes this potential liability.
26. These are disposals at less than best consideration. Therefore in accordance with the RICS document “Local Authority Asset Management Best Practice” it is advisable to state the best consideration that would otherwise be receivable. This is contained with the schedule at Appendix 1

## **LEGAL IMPLICATIONS**

### **Statutory power to undertake proposals in the report:**

27. Under Section 1 Localism Act 2011 the Council has a general power of competence to do anything that individuals generally may do; however that general power is subject to other statutory limitations. Section 123 Local Government Act 1972 provides that the Council must dispose of land for best consideration, save for cases where the consent of the Secretary of State has been obtained for any disposal at less than best consideration. Under the General Disposal Consent (England) 2003, such specific consent is not required for any disposal where the difference between the unrestricted value of the interest and the consideration accepted, is £2M or less. In determining whether or not to dispose of land for less than best consideration the Council should have regard to a number of factors including its accountability and fiduciary duty to local people, its community strategy, all normal and prudent commercial practices, clear and realistic valuation advice on the asset in question and EU State Aid rules

### **Other Legal Implications:**

- 28.. For those scout sites held under the Public Health Acts and designated as “open space” land, the Council is further obliged under Section 123(2A) Local Government Act 1972, before taking any decision to dispose, to advertise its intention of disposal and Cabinet should then consider formally any objections received before making any final decision to dispose.
29. Any pre-emption or buy back right would need to be protected by a restriction entered on the scout`s title.

## **POLICY FRAMEWORK IMPLICATIONS**

30. The recommendations contained in this report are in line with the Council’s Policy Framework.

<b>AUTHOR:</b>	Name:	David Reece	Tel:	023 80832796
	E-mail:	david.reece@southampton.gov.uk		

**KEY DECISION?** Yes

<b>WARDS/COMMUNITIES AFFECTED:</b>	All
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**SUPPORTING DOCUMENTATION**

**Appendices**

1.	Schedule of Scout Sites
2.	Location Plan of Scouts sites, former Scouts sites and Guides sites

**Documents In Members' Rooms**

1.	None
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**Integrated Impact Assessment**

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Yes/No
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**Other Background Documents**

**Integrated Impact Assessment and Other Background documents available for inspection at:**

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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1.	None	
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