



**Joint Report of the Director Resources and Housing and the Director of City Development
Report to Executive Board**

Date: 19th December 2018

Subject: Lineham Farm – Assignment of Lease and Financial Implications

Are specific electoral wards affected? If yes, name(s) of ward(s): Alwoodley	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: 10.4(3) Appendix number: 1	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Summary of main issues

1. Lineham Farm is a popular and well regarded facility which for over 20 years has been providing residential holiday and educational experiences to around 1,500 primary age school age children each year.
2. The centre is run by a charity, the Lineham Farm Children's Centre, with a long lease and support from the City Council. However, it has been clear for some time that the funding arrangements for the centre are neither tax-efficient nor sustainable. Accordingly, the trustees have reached provisional agreement with the trustees of the Leeds Children's Charity for a merger of the two organisations to create a new charitable incorporated organisation (CIO), 'the Leeds Children's Charity at Lineham Farm'. The two charities have also approached the Council to seek assignment of the leases for the centre to the new CIO, with some revisions to make clear the power of the CIO, as tenant, to use the centre for fundraising purposes.
3. In order to allow the proposed amalgamation to be taken forward, and to promote the longer term viability of the new CIO, it is also proposed that recovery of the financial assistance which the City Council has latterly made available to the Lineham Farm Children's Centre charity, to keep the centre open for use by Leeds schoolchildren, should not be pursued.

Recommendations

Executive Board is recommended to:

1. Consent to the assignment of leases in respect to the Lineham Farm centre to the Leeds Children's Charity at Lineham Farm and approve the proposed variations to the leases.
2. Agreement that the financial assistance made available to the Lineham Farm Children's Centre charity over the last few years, to maintain the centre as a going concern, should be written off upon the charity's dissolution.

1. Purpose of this report

- 1.1 This report seeks approval to the assignment of the leases for the Lineham Farm centre to the newly established Leeds Children's Charity at Lineham Farm, to include a number of revisions, and to agree to write off the going-concern funding made available by the City Council to the current Lineham Farm Children's Centre charity, upon that charity's impending dissolution.

2. Background information

- 2.1 Lineham Farm Children's Centre was established in 1994 as a charity with the main object of providing deserving under-privileged and disabled children who live within, or attend schools within the Leeds area, with a residential holiday experience at Lineham Farm in Eccup. The late Denise Atkinson, a former city councillor and former Lord Mayor, was the trust's founding chair and the property was refurbished from the monies raised from her Lord Mayor's Charity Appeal.
- 2.2 Lineham Farm Children's Centre is constituted in accordance with its trust deed as an unincorporated association. It was registered with the Charity Commission in 1994 (charity registration number 1033084).
- 2.3 The Council granted a 125 year lease of Lineham Farm to the trustees of the Lineham Farm Children's Centre for a peppercorn rent on 16th February 1995. Subsequently a lease of adjoining woodland and a farm business tenancy of adjoining agricultural land were granted to the charity at market rent.
- 2.4 Approximately 1,500 children of primary school age visit the centre each year during school term time, and nearly 60% of these live in areas scored in the bottom 10% of the country in terms of the National Multiple Deprivation Index. The centre runs a varied programme throughout a week's stay, including:-
- Animal care to promote responsibility, caring and kindness.
 - Orienteering, country trails, nature explorers, night walks and environment / bush craft sessions for to explore the natural world and learn how and why to care for the environment.
 - Climbing wall, traversing wall, low and high ropes, nightline, mountain biking and archery to develop confidence through success and trust by looking after each other and challenge / face own fears and resilience.
 - Art – to promote self-expression and creativity.
- 2.5 The centre is very popular with schools and always fully booked, with many schools returning year after year as they have seen, first-hand, the enormous benefits that their children reap.
- 2.6 Since the opening of the centre, an arrangement has been in place whereby some of the centre's costs are met by the City Council and others by the charity. For its part, the City Council meets the cost of employing staff to liaise with schools and to provide recreational and related activities at the centre. Some of these staff costs incurred by the Council are offset by fees paid by schools to the City Council for residential stays, with the net cost being budgeted for largely within Children's Services. In addition, a number of support services are also provided to the charity, at no charge. In the year to 31 March 2018, the total cost of these services to the City Council was £223k. The Council acts as the honorary treasurer for the trust and the trust uses the Council's financial systems including FMS, payroll, and creditors

systems. As a result, the Council incurs expenditure on behalf of the trust which is then regularly reimbursed by the trust; the implication of this being that the Council is at any point in time the main creditor of the trust.

- 2.7 On the charity's part, the trustees seek to raise sufficient funds each year to meet the cost of keeping the centre (together with the facilities and equipment used by visiting schools) in an attractive, safe and well-maintained condition. Inevitably, however, as the centre has aged, and the trustees have had to meet higher safety standards, and the rising expectations of schools in what has become an increasingly competitive market, this funding challenge has grown. Currently, the charity employs a full-time fundraising manager and a part-time administrator with a target of raising £250k per annum. However, as charitable donations have fallen away, the trustees have sought increasingly to raise funds from the use of the centre during school holidays and at weekends for 'trading' purposes. The single most important element of this trading income has been derived from charges levied for the use of the centre (principally at weekends) for wedding receptions. However, whilst income from this source has increased significantly over the last few years (from £29k in 2014/15 to £122k in 2016/17) that increase has been more than outstripped by higher maintenance costs, the payment of substantial legal fees to bring about the proposed merger and the fact that, as an unincorporated association, the current Lineham Farm Children's Centre charity has had no way of avoiding the payment of tax on its income. For this amalgam of reasons, the charity's reserves have now been depleted.
- 2.8 Further details of the Lineham Farm Children's Centre charity's current financial position are set out in the confidential Appendix 1.

3. Main issues

- 3.1 Given the financial difficulties facing the charity, the trustees with the support of the Council have been actively working to find a sustainable solution, and following negotiations an agreement has been reached to establish a new charity, Leeds Children's Charity at Lineham Farm that brings together the Lineham Farm Children's Centre charity and the Leeds Children's Charity into a charitable incorporated organisation (CIO). The benefit of the new organisation is that it brings together an organisation, Lineham Farm Children's Centre, with access by way of a lease to Lineham Farm and the Leeds Children's Charity which has no physical asset but has substantial cash balances having previously sold their former children's holiday centre at Silverdale for c£1.5m.
- 3.2 It is proposed that the current lease for the centre is assigned to the new charity, but following negotiations a number of proposed revisions have been agreed which are designed to support the income generating activities of the new trust and are set out below:

3.3 Rights to transfer the leases or sublet the premises

The existing leases do not permit the charity to assign sublet or share occupation of the premises. The leases are to be varied to permit the charity to:

- Assign of the premises to a charity with similar objects subject to the Council's written consent (not to be unreasonably withheld or delayed).
- Underlet of the whole or part of the demised premises to a wholly owned subsidiary of the charity (without the need for further consent from the Council)

or to any other person or body subject to the Council's consent (such consent not to be unreasonably withheld).

- Grant licences to occupy (without the need for further consent from the Council).
- Share occupation with a group company.

3.4 Permitted Use

The permitted use of the land leased under the agricultural tenancy and woodland lease will be extended to permit outdoor recreational uses in connection with a children's centre in accordance with the Tenants charitable objects and ancillary income generating activities, and in the case of the woodland lease, for camping or for parking of vehicles or caravans on a temporary basis for the purpose of fairs festivals or any form of public gathering in connection with the income generating activities.

In addition the permitted use of woodland lease land will be extended to other activities consistent with the Woodland and ancillary uses such as bike trails and rope courses.

A restriction on use is imposed on an area of woodland adjacent to the adjoining donkey sanctuary. This land may only be used as woodland, and income generating activities may only be carried out with the prior consent of the Council. This is to provide a buffer between the charity and the donkey sanctuary. The protection is not absolute as the Council cannot unreasonably withhold consent.

A right of way over the Council's adjoining land will be extended to permit access for income generating purposes.

The permitted use of the main lease will be amended to permit ancillary income generating activities provided the income generated is reinvested in accordance with the Tenant's charitable objects at the demised premises.

3.5 Rent Review

The rent review provisions for the woodland lease have been varied to incorporate a market rent adjustment every 25 years

- 3.6 The remaining clauses of the current leases will remain unchanged (subject to a few minor amendments) and in full force and effect. If approved by Executive Board, the Council will consent to the assignment of the leases from the trustees of Lineham Farm Children's Centre to the new charity and then enter into a deed of variation with the new charity to implement the changes to each of the leases.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 There has been no external consultation on the proposals of this report beyond the trustees of Lineham Farm Children's Centre and the Leeds Children's Charity at Lineham Farm.

4.2 Equality and diversity / cohesion and integration

4.2.1 An equality screening form has been completed for these proposals and is attached as Appendix 2. There are no specific equality issues raised around the proposed purpose of the report.

4.3 Council policies and best council plan

4.3.1 The work of the centre supports a number of the best council objectives and priorities as defined in the Best Council Plan 2018/19-2020/21. These include improving educational achievement gaps and improving school attendance. The centre's focus on deprivation also supports local and city wide strategies such as the Locality Neighbourhoods work, the Children and Young People's Plan, Child Friendly Leeds and the Best City for Learning.

4.4 Resources and value for money

4.4.1 As explained in the Confidential Report at Appendix 1, upon assignment of the principal lease to the new CIO, the Lineham Farm Children's Centre charity will be left with insufficient unrestricted assets to be able to repay the monies that have been advanced by the City Council to maintain the centre as a going concern. Accordingly, given that this situation has arisen solely from the activities of the charity in seeking to ensure that, pending any merger, the benefits of the centre continued to be available to Leeds schools, it is proposed that the sum be written off by the Council to enable the now agreed amalgamation to be taken forward. Depending upon the date upon which the lease is assigned to the CIO, the sum outstanding is currently estimated to be of the order of £170k.

4.4.2 It is recognised that the current operational arrangements whereby the Council provides a range of services direct to the centre without charge, and in essence operates the centre during term time are somewhat unique, and whilst it is not proposed that these are changed in the immediate future, discussions will continue with the trustees of the new charity as to appropriateness of these arrangements as the new charity becomes established and develops.

4.5 Legal implications, access to information, and call-in

4.5.1 Appendix 1 contains information relating to the financial or business affairs of third parties and of the Council, and the release of such information would be likely to prejudice the interests of all parties concerned, and potentially the transfer of the leases to the new CIO. Whilst there may be a public interest in disclosure, in all the circumstances of the matter, maintaining the exemption is considered to outweigh the public interest in disclosing this information at this time. It is therefore considered that Appendix 1 of this report should be treated as exempt information under rule 10.4(3) of the Access to Information Procedure Rules.

4.5.2 Section 137(3) of the Local Government Act 1972 does provide for the Council to incur expenditure on contributions to the funds of any charitable body in furtherance of its work in the UK. Accordingly, the City Council may legitimately resolve not to pursue recovery of monies advanced to a charity to ensure that it remains a going concern.

4.5.3 The proposals contained in this report are subject to call in.

4.6 Risk management

- 4.6.1 It is clear that the current arrangements are not sustainable and without the proposed assignment of the leases to the Leeds Children's Charity at Lineham Farm, there is a very high risk that the Lineham Farm Children's Centre will collapse. Should this occur, it is possible that the Charity Commission could in effect transfer the charity's assets (including the leases) to another charity with similar objects, which could mean the arrangements for schools accessing the centre, or the programmes offered by the centre being less favourable than the current ones.

5. Conclusions

- 5.1 After more than 20 years of operation, Lineham Farm is still greatly valued by schools and pupils. However, it has been clear for some time that without the additional financial support that the City Council has made available over the last few years, the centre would have been required to close. It has been for this reason that the charity's trustees, with the support of the City Council, have been seeking a tie-up with a better-resourced, Leeds-based charity having similar objectives to those for which the Lineham Farm Children's Centre Charity was established in 1994.
- 5.2 Given, then, that after negotiations an agreement has now reached between the Lineham trustees and those of the Leeds Children's Charity to establish a new CIO with overlapping objectives, it is proposed that the relevant leases should be assigned to the new body, with revisions enhancing the capacity of the CIO to raise income from 'trading' from the centre via a more tax-efficient trading subsidiary arrangement.
- 5.3 It is further proposed that, in order to allow the merger to go forward, the City Council should agree not to seek recovery of the monies it has advanced to ensure that the Lineham Farm Children's Centre Charity could be maintained as a going concern until such time as a sustainable future for a new charitable venture, continuing to be based at Lineham Farm, could be identified.

6. Recommendations

- 6.1 Executive Board is recommended to:
- Consent to the assignment of leases in respect to the Lineham Farm centre to the Leeds Children's Charity at Lineham Farm and approve the proposed variations to the leases.
 - Agree that the financial assistance made available to the Lineham Farm Children's Centre Charity over the last few years, to maintain the centre as a going concern, should be written off upon the charity's dissolution.

7. Background documents¹

- 7.1 None

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.