



To: Planning & Policy Board

On: 17th May 2016

Report by: Director of Finance & Resources

Heading: Kilbarchan Nursery, Meadside Avenue Kilbarchan

1. Summary

- 1.1. The purpose of this report is to seek consent to grant a lease of the Kilbarchan Nursery, Meadside Avenue Kilbarchan to the Kilbarchan Community Nursery (SCIO) as shown on the attached plan.
 - 1.2. This Lease shall be for the purpose of the Kilbarchan Community Nursery (SCIO) providing early learning and childcare at this property and shall be for period of 1 year in duration.
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2. Recommendations

- 2.1 It is requested that the Board agree to the granting of a lease of Kilbarchan Nursery Meadside Avenue , Kilbarchan to the Kilbarchan Community Nursery (SCIO) for a period of 1 year on the terms and conditions as detailed in the body of this report.
 - 2.2 Request the Head of Corporate Governance to conclude the lease on behalf of the Council with the Kilbarchan Community Nursery(SCIO) subject to the terms and conditions detailed within the body of this report.
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3. Background

- 3.1. A lease was granted of the Kilbarchan Nursery building located at Meadside Avenue Kilbarchan to the Kilbarchan Community Nursery Association, originally for a period of 5 years from the 26th of August 1999. This lease has been continuing on a year to year basis, managed by Children's Services. The Nursery Association is now known as Kilbarchan Community Nursery Committee. The lease was dependent on the organisation providing early learning and childcare facilities in accordance with the partnership agreement with Children's Services that was in place at the time of commencement of the lease
- 3.2. Kilbarchan Community Nursery Committee was an existing charity and applied to the Office of the Scottish Charity Regulator to change its status to a Scottish Charitable Incorporated Organisation (SCIO) as this would benefit the charity. Approval to change charity status was granted, however due to the nature of the service being provided approval for a transfer of provider and service also needed to be obtained from the Registration Body, the Care Inspectorate. Formal approval from them is required before the Kilbarchan Community Nursery (SCIO) can legally provide Services at the nursery premises. The current Kilbarchan Community Nursery Committee are entitled to seek funding under the aforementioned Framework Agreement and seek Children's Service consent to also transfer those rights to the SCIO and arrangements are being made to facilitate this transfer
- 3.3. Given the existing lease agreement has been continuing on a year to year basis since 2004 and the organisational change of the tenant, it was necessary that a new lease be agreed with the existing lease agreement being terminated.
- 3.4. The lease has only been sought for 1 year to allow Children's Services to review the basis of the lease/lets agreements they currently operate in their framework arrangements with all Nursery providers.
- 3.5. The following Heads of Terms have been provisionally agreed with Kilbarchan Community Nursery (SCIO):-
 1. The subjects of the lease shall be the Kilbarchan Nursery at Meadside Avenue Kilbarchan as shown hatched on the attached plan together with the buildings erected thereon together with:
 - i. A right of pedestrian access to the Subject from Meadside Avenue, Kilbarchan over those areas shown shaded on the plan.
 - ii. A right of vehicular access to the adjacent school car park for staff only as shown crosshatched on the plan
 2. The lease shall be for a period of 1 year from the date of entry which is to be mutually agreed.

3. The rent and cleaning services shall be £150.75 Sterling per annum per Commissioned Place as defined in the Framework Arrangement for The Provision of Early Learning and Childcare Places in Private and Voluntary Sector Nurseries within Renfrewshire Council area (the Framework Arrangement), said amount being initially payable, where such funds are available, by direct deduction by the Council from any Payments due under Condition 2.2 in accordance with Condition 2.5 (Use of Council Premises), both Conditions of the Framework Arrangement, to the Tenant by the Council's Children's Services or such other figure as may be agreed with the Council following review.
4. The rental shall be subject to upward review where increases to the Commissioned Place funding are provided for within as provided for in the Framework Arrangement commencing on 27 March 2015 as referred to in Condition (SEVEN).
5. The Council will pay all rates and local taxes and other charges arising from the Tenant's occupation of the subjects with the exception of telephone costs (including rental charges) and water rates.
6. The subjects shall be used for the purpose of providing Early Learning and Childcare and including associated activities and for no other purpose whatsoever.
7. The Tenant must, as a condition of the lease, have been granted the right to participate in funding available under the Framework Arrangement. Should the right to participate in funding under the Framework Arrangement be terminated, for whatever reason, or where the Tenant withdraws from participation in the Framework Arrangement for the Provision of Early Learning and Childcare Places in Private and Voluntary Sector Nurseries within Renfrewshire Council area, then this Lease shall automatically terminate.
8. The Tenant will accept the Subjects in its present condition as in all respects in good substantial and tenantable repair and condition and in all respects fit for the purpose for which the Subjects are let. The Tenant will at all times maintain the Subjects internally in good substantial and tenantable repair.
9. The Council will be responsible for keeping the property wind and watertight, maintaining all fixtures within the building, replacing all glass and maintaining the boundary fence as necessary.
10. The Council will insure the building and fixtures of the subjects for an amount sufficient to cover the cost of repairing all damage to or completely reinstating the subjects in the event of destruction and against the loss or damage by fire, lightning, storm, subsidence, flood and explosion or such other risk insurance against which the Council acting reasonably may from time to time deem necessary. The Council will be responsible for the payment of the premium thereof.

11. The Tenant will insure the contents of the subjects with a Company to be approved by the Council for an amount sufficient to cover the cost of replacing all contents in the event of loss or damage thereto if so required by the Council. Further, the Tenant will maintain insurance policies indemnifying the Council against all claims of whatever nature arising out of the Tenant's occupation of the subjects. The Tenant will effect employer's liability insurance and public liability insurance with a Company to be approved by the Council (which approval shall not be unreasonably withheld or delayed) for such cover which the Council acting reasonably shall from time to time in its sole discretion deem adequate and shall comply with any conditions which the Council require in terms of the Framework Arrangement. The Tenant will be responsible for the payment of the premiums thereof and shall on request provide evidence to the Council when such cover/s have been effected and all due premiums have been paid
12. Assignment of the Lease and sub-letting of all or part of the premises is expressly excluded.
13. The Tenant will enjoy janitorial and cleaning services from the adjacent school at no charge.
14. In the event of the Tenant failing to implement the obligations and the conditions imposed by the Lease, the Council shall be entitled to enter upon the Subjects and carry out such work as may be necessary and to charge the Tenant with the full cost thereof, which cost shall be payable not later than 14 days after receipt by the Tenant of a written demand for payment from the Council: reserving to the Council the right to claim compensation from the Tenant in respect of any dilapidation, deteriorations of or damage to any part of the Subjects and fixed equipment thereon caused by failure of the Tenant to implement his obligations and, in the event of failure to agree to the amount of such compensation, the amount shall be fixed by arbitration as is hereinafter stipulated.
15. Each of the parties to this Lease shall bear their own legal and other expenses thereby incurred. However, the Stamp Duty or land transaction taxes, if any, shall be borne by the Tenant

Implications of the Report

1. **Financial** – The Council's financial responsibilities will remain the same as the existing lease agreement.
2. **HR & Organisational Development** – Not Applicable.
3. **Community Planning** –
 - a. **Children and Young People**

- i. Continuation of early years childcare facilities for the community of Kilbarchan.

b. Community Care, Health & Wellbeing

- i. Not Applicable

c. Empowering our Communities

- i. Nursery will be operated by members of the community.

- 4. **Legal** – Conclusion of a new lease agreement.
- 5. **Property/Assets** – As per report.
- 6. **Information Technology** – Not Applicable
- 7. **Equality & Human Rights.**
 - (a) The Recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report. If required following implementation, the actual impact of the recommendations and the mitigating actions will be reviewed and monitored, and the results of the assessment will be published on the Council's website.
- 8. **Health & Safety** – Not Applicable.
- 9. **Procurement** –Not Applicable.
- 10. **Risk** – Not Applicable.
- 11. **Privacy Impact** – Not Applicable.

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Ref: Document2
Date: 05/05/2016

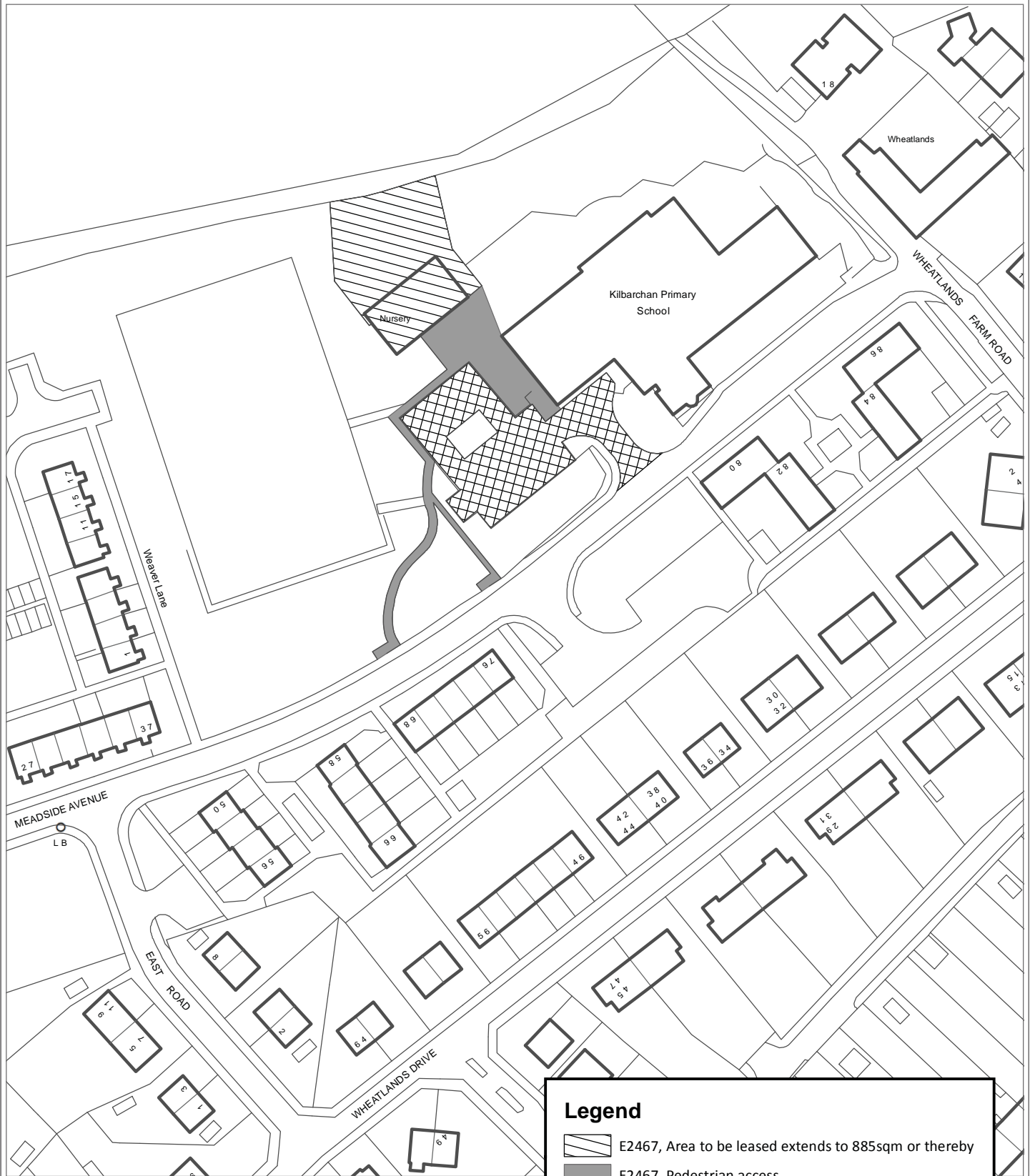
Kilbarchan Nursery

Report / Lease Plan Ref. E2467






User: howardhaughj2

Date: 23/03/2016



Legend

-  E2467, Area to be leased extends to 885sqm or thereby
-  E2467, Pedestrian access
-  E2467, Vehicular access (staff only)

Notes: