

Renewal of Lease – Cemetery Road Play Park

The parish council has an existing lease for the pocket park play area at Cemetery Road, which is situated on land registered to the Trustees of Wickhambrook Memorial Social Centre.

The lease was negotiated in 2013 and provides for Wickhambrook Parish Council to use and maintain the land for the purposes of recreation.

The lease is due to expire in February 2023 and the budget approved for the next financial year (2022/23) makes provision for £1500 plus VAT for the renegotiation/renewal of the lease.

The legal basis for the parish council to maintain play areas is contained in:

- Public Health Act 1875, s.164
- Local Government (Miscellaneous Provisions) Act 1976, s.19

There is a further ancillary power under Local Government Act 1972, s.111 to do anything that will facilitate, be conducive to or incidental to the discharge of its powers and functions.

At an extraordinary meeting on 7th April '22 the parish council resolved to

Authorise the clerk to instruct solicitors to renew the lease with Trustees of Wickhambrook Memorial Social Centre at a cost of not more than £1500 plus VAT.

The Clerk instructed the solicitors in May, and a payment on account (£50.00) was made in June. In August, Burnett Barker Solicitors advised in e-mail correspondence that:

...the lease is inside the renewal provisions of the Landlord & Tenant Act, so that the parties could just leave it to roll on, but she would advise that you enter into a new Lease.

My colleague has confirmed that she is able to produce a draft of a lease on essentially the same terms save for some updating that you could accept. The freeholders can then decide whether or not they want to grant that lease. My colleague is able to prepare the new lease at a rate of £210 per hour plus Vat, and provided that the parties do require like for like with some minor updating, that she would expect to be able to complete the work for a cost of £350 to £500 plus Vat. This estimate is provided on the basis that there are no major changes to the document, and that the freeholder co-operates efficiently and in a timely manner.

and asked how the parish council wished to proceed. The clerk requested the solicitors to provide an explanation of their reasoning for re-negotiation of the lease, and sought advice from SALC (a summary of which, together with their response, was attached as Appendix A to report WPC.22.09.04, considered at the September meeting of the parish council.

No response was received from the solicitors prior to the meeting, and the parish council, having considered the options available, agreed:

That the renewal of the lease should be continued with under Landlord and Tenant Act and asked the clerk to advise the Trustees of the Wickhambrook MSC and appointed Solicitors accordingly.

The clerk reported back to the Trustees of the MSC, and the solicitors. Burnett Barker have subsequently advised that:

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"There will not be a new paper Lease to register. Although the contractual terms have come to an end the rights under the Lease continue, and continue to roll on until the Landlord issues a section 24 notice. This does leave you vulnerable to the Landlord issuing the relevant notice when it is not convenient to you, but means you can continue without drafting a new document and incurring any registration fees."

The Trustees of the MSC were informed of this advice and confirmed again that they were content to proceed on the basis of the rights of the lease continuing under the Landlord and Tenant Act.

Burnett Barker have been advised that there is no requirement for negotiation of a new lease, both parties are content to continue under Landlord and Tenant Act.

The parish council has now received a final statement and there are no further fees due. The total charge was £36.67 plus VAT.

Minutes:

22.09.10.3
22.04.10
22.02.10

Reports:

[WPC.22.09.04](#)
[WPC.EO.22.04.03](#)
[WPC.22.02.04](#)