

BIG LOTTERY FUND CHILDREN'S PLAY PROGRAMME – GRANT OF LEASE AT SEASCALE

EXECUTIVE MEMBERS: Councillor Hugh Branney, Portfolio Holder for Leisure and Cultural

LEAD OFFICER: Cath Coombs, Acting Head of Leisure and Environmental Services.

REPORT AUTHOR: Clinton Boyce, Legal Services Manager.

SUMMARY:	To advise Members of action taken under the Executive's urgent business procedure in respect of an amendment to a lease previously granted to Seascale Parish Council for the purposes of the Seascale Wheeled Activity/BMX project
RECOMMENDATION:	That the urgent action, as an Appendix to the report, in respect of the Seascale Wheeled Activity/BMX project, is noted.

1. BACKGROUND AND CURRENT POSITION

- 1.1 Members will recall that a lease was granted to the Seascale Parish Council on the 22nd May 2009 for the purpose of enabling that Council to construct a new BMX track site. The lease was for a period of 10 years from the 6th April 2009. The BMX track has been installed and is fully operational.
- 1.2 Legislation requires tenants of leases which are to last more than 7 years to register them with the Land Registry. A failure to register renders the lease void. The Parish Council attempted to register the lease but due to various procedural complications the Land Registry returned the application shortly before the 2 month period. An alternative to persisting with the application, which was becoming time consuming, was for this Council to re-grant a 7 year lease and the Parish Council requested this. A change in the lease period would not affect the Council. The lease would be for a shorter length of time but this did not affect this Council's position as (a) obligations of maintenance and reinstatement following termination are included in the lease – whether the lease ended in 7 or 10 years time did not matter as the Parish Council are under an obligation to remove the track and reinstate; (b) 7 years is still longer than the required Big Lottery Fund dedication period of 5 years; and (c) the expected life of the track is more than 10 years so at the end of the 7 or 10 year period the question of renewal is likely to arise.
- 1.3 Given the above, the lease was reduced to 7 years under the Council's urgent action procedure a copy of such action being attached as an appendix.

2. RECOMMENDATIONS

- 2.1 Members are asked to note the action taken.

3. FINANCIAL AND HUMAN RESOURCES IMPLICATIONS (INCLUDING SOURCES OF FINANCE)

3.1 No financial or other implications arise from the action taken.

4. PROJECT AND RISK MANAGEMENT

4.1 No issues arise from the action taken.

5. IMPACT ON CORPORATE PLAN

5.1 The project indirectly supports objectives 2.1.3 (reviewing use of local facilities to ensure that they meet community needs), 3.1.6 (increase tourism, culture and leisure spend), 3.6 (leisure and culture generally and developing interest and capacity amongst residents to take forward sports activities following Copeland led start up projects and removing barriers to participation)

List of Appendices

Urgent action form in respect of Seascale Wheeled Site.

List of Background Documents

As appendix.

List of Consultees

As set out in the urgent action.

Head of Legal & Democratic Services (ref MJ)

Head of Finance and Management Information Systems (ref JC)

CHECKLIST FOR DEALING WITH KEY ISSUES

Please confirm against the issue if the key issues below have been addressed. This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	N/a
Impact on Sustainability	N/a
Impact on Rural Proofing	N/a
Health and Safety Implications	N/a
Project and Risk Management	Paragraph 4
Impact on Equality and Diversity Issues	N/a
Children and Young Persons Implications	Directly supports leisure for children
Human Rights Act Implications	N/a
Monitoring Officer comments	As set out in the urgent action
Financial Monitoring Officer comments	As set out in the urgent action

Please say if this report will require the making of a Key Decision NO



Ref Number	Date Issued	Officer/Dept	Rec'd by Secretariat	Reported to the Executive
04/09	22 nd July 2009	C Boyce	21/9/09	22/9/09
Prior to processing this form it must be referenced by the Secretariat				

REQUEST FOR AGREEMENT TO URGENT ACTION UNDER EXECUTIVE PROCEDURE RULES

SEASCALE BMX TRACK

STAGE A

Portfolio: Promoting Prosperity (Leisure and Culture)	Originating Officer: Clinton Boyce, Legal Services Manager
Date of next Executive meeting: 28 th July 2009	
<p>Action proposed:</p> <p>To approve a variation to a lease already granted to adjust the lease period from 10 years to 7 years.</p> <p>On the 22nd May 2009 a lease was granted to Seascale Parish Council of land situated adjacent Seascale Cricket Ground for the purpose of a BMX track, for a period of 10 years, at a peppercorn rental with restricted use and repairing and insuring obligations being on the tenant. The lease commencement date was the 6th April 2009 being the date that works started.</p> <p>As the lease is for more than 7 years the lease is registrable with the Parish Council. This is proving costly and due to complications the 2 month registration period has just elapsed resulting in the lease arguably being void. Registering the lease is a legal requirement but has little benefit. The Council's freehold title is not registered and it is peculiar that the law should require leases out of an unregistered title to be registered.</p> <p>The position can be rectified by the existing lease being varied to a 7 year lease period and the parties agreeing that apart from that variation the lease continues in full force and effect.</p> <p>The only consequence of reducing the period is that the land could revert to the Council 3 years earlier. If the tenant does not wish to take a further lease, the Council can under the existing lease, require reinstatement of the land to its previous condition.</p>	

Financial/Resource Implications:

None.

Reason(s) for urgency:

An omission to register the lease will result in the lease becoming void. As the track is in full use it is important that the lease is reinstated as a matter of urgency.

Implications of not taking action before next Executive:

See 'Reason(s) for urgency' above.

Comments of Head of Legal & Democratic Services on grounds of urgency:

Agreed that this should be treated as "Urgent" as otherwise there would be a serious effect on service delivery.

Certified and Agreed as Urgent:

Signed: M. J. SDC

Dated: 22nd July 2009

STAGE B

Ref No

04/09

Portfolio Holder

Comments on action proposed:

Action: AGREED/~~NOT AGREED~~

Signature: Hugh Brannan Dated: 24 July 2009

Overview and Scrutiny Chair

Comments on action proposed:

Action: AGREED/~~NOT AGREED~~

Signature: J. Y. Blackburn Dated: 24th July 2009

Head of Finance and ~~Business Development~~

Comments on action proposed:

Action: AGREED/~~NOT AGREED~~

Signature: [Signature] Dated: 22nd July 2009

Head of Legal and Democratic Services (Monitoring Officer)

Comments on action proposed:

Action: AGREED/~~NOT AGREED~~

Signature: [Signature] Dated: 22nd July 2009

Other Consultees (State Name)

Comments on action proposed:

Action: AGREED/NOT AGREED

Signature: Dated:

STAGE C

Ref No	04/09
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To be completed by Originating Officer

I certify that Stages A and B of this procedure have been completed and the Urgent Action proposed will be implemented on or after the date of this certification

Signature: [Signature] Dated: 24/07/09