

Committee: Merton and Sutton Joint Cemetery Board

Date: 20 November 2018

Wards: Lower Morden

Subject: REVISED LEASE ARRANGEMENT FOR GREEN LANE PRIMARY SCHOOL.

Lead officer: Chris Lee, Director of Environment and Regeneration.

Lead member:

Contact officer: Howard Joy, Surveyor to The Board

Recommendations:

1. That the report be noted.
-

1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. To advise the Board of the assignment of the lease of the playing field to Kingston Council to the Coombe Academy Trust of Coombe Boys School.

2 DETAILS

- 2.1. Site A, Playing Fields, Land to the rear of Green Lane Primary School, Green Lane, Worcester Park (see appendix "site plan") is let to RB Kingston for school playing field under a lease dated 28th April 2016.
- 2.2. Green Lane Primary School has been granted an order to become an academy. To implement this Kingston council has granted a statutory 125-year lease of the school to the Coombe Academy Trust of Coombe Boys School, College Gardens, Blakes Lane, New Malden in respect of the land it owns. However, part of the playing field land is leased by Kingston from the London Borough of Sutton as Sutton holds the land on behalf of the Merton and Sutton Joint Cemetery Board.
- 2.3. Kingston council applied to assign its interest in the lease from the London Borough of Sutton to the Academy school as part of the Academy conversion but requires consent from Sutton and the Board by clause 18.1 of the lease.
- 2.4. The lease provides that Kingston have the right to assign their interest and the landlord can only object upon reasonable grounds. The only ground that could be considered reasonable would be if the assignment could frustrate future use for cemetery purposes by the Board. Legal advice is that agreeing to the assignment would not frustrate this use for cemetery purposes. This is because the academy is only entitled to an assignment of the remaining years under that lease, in this case 15 years, not to a new 125-year lease under the Academies Act 2010.
- 2.5. Surveyors for the London Borough of Sutton were consulted and on 18th July 2018 the Chair of the Board was advised of the position and advised that a report would be presented to the next meeting of the Board confirming the position.

- 2.6. As there was no reasonable ground available should the Board or LB Sutton wish to object to the assignment on 31st August 2018 licence to assign was completed.

3 ALTERNATIVE OPTIONS

- 3.1. None for the purposes of this report.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. Chair of the Board.
4.2. Officers of London Borough of Sutton.

5 TIMETABLE

- 5.1. The licence to assign and assignment have been completed.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. Property implications are contained within the body of this report.
6.2. The rent of £4,000 p.a. will be paid by Coombe Boys School from 31st August 2018

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1. Under the terms of the Lease dated 28th April 2016 made between the London Borough of Sutton and the Royal Borough of Kingston, clause 18.1 states that consent to assign may not be unreasonably withheld. There were no reasonable grounds for the Council to object to the assignment and therefore consent must be given. In any event, section 19(1) Landlord and Tenant Act 1927 would imply such reasonableness.
- 7.2. Under The Academy Act 2010, an Academy is entitled to call for land (i.e. in this case the playing field) that has previously been used for the purposes of a school. There is nothing in the Academy Act allowing a local authority to oppose this.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1. None for the purposes of this report.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1. There are no specific crime and disorder implications arising directly out of this initiative.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

- 10.1. None for the purposes of this report.

11 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Site plan.

12 BACKGROUND PAPERS