

EAST RENFREWSHIRE COUNCILCABINET23 March 2023Report by Director of EnvironmentPROPOSED LEASE, FORMER COWAN PARK GATE LODGE
DARNLEY ROAD, BARRHEAD**PURPOSE OF REPORT**

1. The purpose of the report is to ask Cabinet to approve the proposed lease of the former gate lodge at Cowan Park, Barrhead to the charity Include Me 2 Club.

RECOMMENDATION

2. The Cabinet is asked to;
- a) note the Court's approval of the Council's application to remove the Cowan Park Gate Lodge from the Barrhead Common Good Fund for a term of 30 years to facilitate the development of a new social enterprise and community hub;
 - b) approve the proposed lease of the former Cowan Park Gate Lodge to the charity Include Me 2 Club;
 - c) approve the proposed terms of the lease at a peppercorn rent of £1 per annum for 30 years; and
 - d) delegate to the Director of Environment, in consultation with the Chief Officer (Legal and Procurement), to finalise negotiations and conclude the proposed lease.

BACKGROUND AND REPORT

3. In November 2018, an East Renfrewshire Council Officer Working Group was established to develop proposals that would result in the derelict Cowan Park Gate Lodge situated off Darnley Road, Barrhead, being brought back into productive use and deliver community benefit. A Cowan Park Community Engagement Steering Group (with 40 community members) was formed to engage the wider community on projects including the Gate Lodge. The results of the community engagement and survey were published in July 2019. This highlighted the refurbishment of the Gate Lodge as a priority project for the local community with preferred uses including a café, public toilets and social enterprise hub. The lack of such facilities in the park has been an issue for local residents for many years.

4. In July 2019, Voluntary Action East Renfrewshire as the Third Sector Interface in East Renfrewshire, issued a call for expressions of interest to over 260 local community groups and social enterprises to seek their interest in running these services from the Gate Lodge.

5. Include Me 2 Club's business case proposing their vision for the facility, along with supporting evidence, resulted in their selection as the preferred occupier in October 2019. East Renfrewshire Council then submitted a bid to the Scottish Government's Regeneration Capital Grant Fund bid.

6. The proposal received the backing of the Scottish Government with the successful award of a Regeneration Capital Grant Fund (RCGF) Award of £499,000. East Renfrewshire Council's contribution of £391,000 was reflected in the Council's General Fund Capital Programme for 2021/22 and 2022/23. Following an increase in costs the Scottish Government's RCGF awarded a further £200,000 with an additional £28,700 allocated from the Department of Environment's existing budgets. Include Me 2 contributed £75,000 towards the capital works. Total project costs are £1,193,700.

7. All outstanding snagging items were addressed in the week commencing 6th March 2023. The temporary licence to occupy was issued to Include Me 2 on 3rd March 2023.

8. This project will regenerate a derelict property and deliver a new Enterprise & Community Hub in Barrhead. The Hub will provide the following:

- café
- public toilets
- enterprise and community space for hire
- hot-desking and meeting spaces for hire
- cycling hub, bike hire and maintenance
- skills development, training and improving employability prospects.

9. The proposed tenant is a well-established registered charity that provides services, support and advice to individuals and their families with additional support needs, learning, physical disability, or mental health condition, suffering isolation or loneliness. The charity operates from the McGuire Building at 124 Main Street, Barrhead providing support to adults and children throughout Scotland. They currently have a licence to occupy at the McGuire Building via East Renfrewshire Council.

10. The charity proposes to lease the Cowan Park Gate Lodge property (in addition they have a licence to occupy the Maguire Building and a commercial lease of an industrial unit at Crossmill) to deliver additional services and activities to meet local demand. The property and outdoor space proposed to be included in lease is denoted at Appendix 1. The proposed lease for Cowan Park is in addition to the tenant's occupation of the Maguire Building.

11. To improve the viability of the community hub and in accordance with the permissions granted under the Court approval, Include Me 2 Club have requested to lease the building at a peppercorn rent of £1 per annum for 30 years. The long lease terms will enable the organisation to apply for external funding to sustain and meet the demands of a full repairing and insuring terms lease and a service level agreement. Additionally, Include Me 2 Club have put forward that their business case financials and subsequent investment into the project was based on obtaining a long-term lease of 30 years.

12. The Cabinet is asked to approve a 30-year lease. In considering the recommendation, Cabinet should note that this is not consistent with recently approved Council Commercial Lets policy. Details of this are included in paragraphs 28-31 of this report.

13. To approve a lease for the premises, a temporary disposal of the "Common Good" status of Cowan Park Gate Lodge was required. To permit the property to be temporarily disposed from the Common Good Fund for a period of 30 years, the Council sought approval

from the Court. This approval was granted in November 2022 subject to the restriction of the use.

14. The Court approval states;

“The subjects shall be used for the purpose of a community hub consisting of a café and social enterprise meeting and activity space, two shipping containers to create a cycle hire facility and 9 parking bays with associated designated access routes into the parking area and for no other purpose whatsoever; and without prejudice to the foregoing it is declared that on the subjects no alcoholic liquor shall be sold or consumed or stored.”

15. In addition there will be a service level agreement forming part of the lease. This Schedule will set out the service and management expectations the community and Council seek from the facility.

16. Include Me 2 currently have a licence to occupy the Gate Lodge and this has been issued on a rolling four week basis.

17. In October 2022, an independent valuation of the property was undertaken by the District Valuer. Their professional opinion of value took into account the refurbishment of the asset, locality, age, condition and amenity of the property comparing this against market evidence of transactions of similar assets (both sales and rental). It was reported there was a lack of direct comparable evidence however this was unsurprising given the unique characteristics of the subject property. The Valuer reported their opinion of values as detailed below;

DESCRIPTION	VALUE
Market Value with current restriction to community use in place	£115,000
Market Value with the special assumption that the community use restriction is not in place	£260,000
Market Rent subject to a community use only	£8,500 per annum

18. The proposed terms of the lease are detailed in paragraph 19. Taking into account the tenant obligations, the financial contribution by Include Me 2, and the Regeneration Capital Grant Funding awarded towards the project to date, a nominal rent of £1 per annum is proposed.

19. The lease of the renovated Gate Lodge to Include Me 2 Club is accordingly proposed subject to the following terms and conditions.

- The tenant being Include Me 2 Club.
- Include Me 2 Club, as tenant, maintaining its charitable status for the duration of the proposed lease.
- The rent remaining at £1 per annum (if asked).
- The lease being for thirty years
- The renovated former Cowan Park Gate Lodge being used as a community facility to assist in the delivery of services to children, young people and adults with additional support needs.
- The lease of the property being on full repairing and insuring terms. The tenant will be liable for all compliance of the property.
- The tenant will enter into a service level agreement detailing the range of services which the Council will expect to be delivered in exchange for the £1 (if

asked) rental. The Tenant shall be responsible for and deliver the following services from the subjects;

- a) The building should be made available between the hours of 9am-9pm, Monday to Friday and 8am to 6pm weekends to maximise the use and impact of the asset excluding the two week period of the festive season to accommodate proposed tenant's annual closure of services.
 - b) Access to public toilets, 7 days a week from 9am until 5 pm. These facilities should be kept maintained/clean/ secure excluding the two week period of the festive season to accommodate proposed tenant's annual closure of services.
 - c) The main building operations would be open from:
9am to 5pm for café with late evening opening when required
9am to 5pm for activity hub with late evening opening when required
5pm to 9pm for activities, groups & events
- The tenant not being permitted to assign the lease to another party without the landlord's formal consent first being obtained.
 - The tenant being responsible for meeting all running costs.
 - The tenant being responsible for any necessary planning permissions, building warrants together with any other consents, statutory or otherwise, needed in relation to its tenancy and occupation of the subjects. For the avoidance of doubt this includes all compliance issues being addressed by the tenant.
 - In accordance with the council's standard practice, the council's reasonable legal and surveyor's fees, incurred in concluding the proposed lease, being reimbursed by the tenant.
 - All other terms and conditions required in relation to the proposed lease being a matter for negotiation between the respective parties' solicitors.

FINANCE AND EFFICIENCY

20. The project was awarded £699,000 grant funding from the Scottish Government's Regeneration Capital Grant Fund and £419,700 match funding was provided by East Renfrewshire Council.

21. The proposed lease enables the delivery of a community use and public toilet provision to the Barrhead wider community within the renovated former Gate Lodge, with the tenant responsible for meeting the cost of its occupation and all future maintenance. There are no UK Subsidy Control implications triggered by this letting.

22. The proposed lease will be issued at a peppercorn rental of £1 (if asked). This rental would be below a market rental.

23. Consideration has been given to the processes detailed under Section 74 of the Local Government (Scotland) Act 1973 and the Disposal of Land by Local Authorities (Scotland) Regulations 2010. Section 74 gives the local authority the power to dispose (for sale or lease) of land in any manner they wish unless the land is being disposed of for less than best consideration that can reasonably be obtained, in which case we can only dispose of land at 'less than best consideration' where such a proposal meets the requirements of the Disposal of Land by Local Authorities (Scotland) Regulations 2010. This requires that the local authority must appraise and compare the costs and other dis-benefits and benefits of the proposal and determine that the 'circumstances' set out in Regulation 4 are met.

24. The 'circumstances' in which a local authority may dispose of land for a consideration less than the best that can be reasonably obtained are that the local authority is satisfied that the disposal for that consideration is reasonable, and the disposal is likely to contribute to any of the 'purposes' set out within the regulations (in respect of the whole or any part of the area of the local authority or any persons resident or present in its area).

25. These 'purposes', which the local authority must consider, include the promotion or improvement of following types of benefit economic development, regeneration, public health, social wellbeing and/or environmental wellbeing. It is assessed that the regeneration of a derelict building to deliver wellbeing services, in addition to the new facilities that will be provided as set out in paragraph 8 above demonstrate that these circumstances have been met.

CONSULTATION

26. Consultation has taken place with a range of key stakeholders including the Council's Property and Technical Services, Paisley Sheriff Court, Legal and Procurement teams, Barrhead Community Council and the Scottish Government.

PARTNERSHIP WORKING

27. The proposed lease continues the current partnership working with East Renfrewshire Council and Include Me 2, the details of which are noted at paragraphs 3-5 and paragraph 9. This project has been worked on in partnership with Include Me 2 since 2019. In addition, wider stakeholder involvement has taken place with Barrhead Community Council. Furthermore, the facility itself will provide a community hub to support local groups and facilitate partnership working.

IMPLICATIONS OF THE PROPOSAL

28. In April 2022, the Council approved the paper outlining the policies and procedures when granting of commercial leases, a copy of which can be found at;

www.eastrenfrewshire.gov.uk/commercial-property.

29. The policy states a market rental should be sought considering the comparable evidence and reviewed every 3 or 5 years in line with the Local Authority Scotland Act 1972. The Council policy does permit an exception whereby a charitable organisation can be granted an agreement on a week to week basis at £1 (if asked). Such tenancies are subject to a maximum term of 52 weeks. If the tenant wants to remain in the property thereafter they will need to pay the market rent or consider options under a Community Asset Transfer request.

30. The approval sought by Include Me 2 for a 30 year lease is not consistent with current Council policy. Cabinet may wish to note that the negotiations of the renewed terms of the lease to Include Me 2 began in 2019; some 3 years prior to the implementation of the new commercial leases policy. Over this period, they have worked alongside Council teams to present the need for the facility and benefits they deliver to the community.

31. Legal Services advise that Cabinet is in a position to competently approve the proposed length of lease even though the recommendation is contrary to Council policy. The policy in question was itself approved by Cabinet. As such Cabinet has sufficient standing in

the Council's hierarchy to approve this derogation from policy especially given that the report contains enough information to explain the basis for the derogation in this particular case.

32. The partnership with Include Me 2 has facilitated the attraction of the significant regeneration funds to allow a derelict building to be brought back into productive use to support economic, social and environmental activity in Barrhead. Negotiations could not be concluded until the regeneration plans for the project were progressed and the required Court case to remove the property from the Common Good Fund for 30 years was concluded.

33. There are no staffing, equality or sustainability implications associated with this report.

CONCLUSIONS

34. The proposed lease will bring the vision of a newly created social enterprise and community hub within the renovated Cowan Park Gate Lodge to fruition. Include Me 2 Club will provide public toilet facilities, a café provision and many more social, economic and community benefits to the park and wider area.

RECOMMENDATIONS

35. The Cabinet is asked to;

- a) note the Court's approval of the Council's application to remove the Cowan Park Gate Lodge from the Barrhead Common Good Fund for a term of 30 years to facilitate the development of a new social enterprise and community hub;
- b) approve the proposed lease of the former Cowan Park Gate Lodge to the charity Include Me 2 Club;
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- d) delegate to the Director of Environment, in consultation with the Chief Officer (Legal and Procurement), to finalise negotiations and conclude the proposed lease.

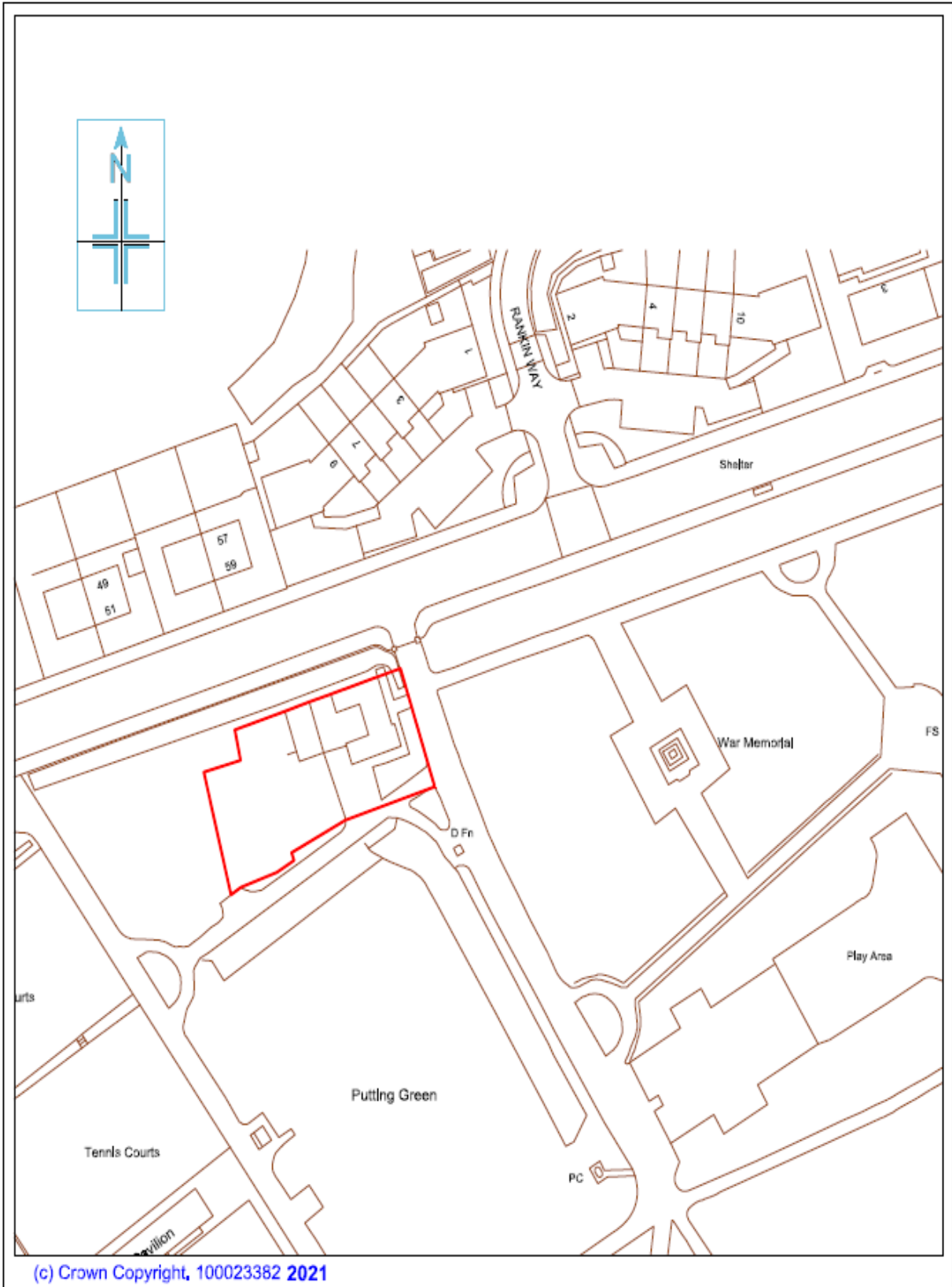
Director of Environment

Further information can be obtained from Phil Daws, Head of Environment (Strategic Services) 0141 577 3186 or phil.daws@eastrenfrewshire.gov.uk

February 2023

APPENDIX ONE

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