

REPORT ON BEHALF OF THE PROPERTY & PROJECTS GROUP

SUBJECT: ST BRIDES SCOUTS LEASE RENEWAL UPDATE

Purpose of Report

To update Members on progress over the last year since the most recent previous report to Members dated 16/3/16 on the same subject.

Background

The Scouts have been in occupation of the site since 1982 and have been holding over in possession paying an historic rent of £200 pa since the contractual term of their lease expired in 2002. Members will recall that this matter of the renewal of the lease and the terms of such a renewal were before them last year (report 13/16).

The resolution of Members at their meeting on the 16th March last year was to grant the Scouts a lease renewal to extend their occupation for a period of 25 years subject to agreeing an acceptable level of rent and to serve a notice under Section 25 of the Landlord & Tenant Act 1954 to bring the existing historic tenancy to an end and to make provision for the Court to set both an interim rent and market rent in the event that the Scouts and this Authority are unable to reach a negotiated agreement on the issue of rent.

That resolution was partly informed by a joint valuation report which had been jointly commissioned by the Scouts and this Authority and prepared by the District Valuer, whose opinion of the prevailing market rent for the proposed lease terms was in the order of £8,250pa.

Your Officers served the Section 25 notice on the Scouts as at the 20/5/16 giving notice that their existing historic lease will end on the 1/5/17, and reserving the right to seek the Courts determination on the subject of rent. The formal notice made clear that there was no objection to the renewal of the lease in principle with the issue of rent to be determined either by Court decision or agreement

In the interim and with negotiations continuing we have not yet commenced a formal application to the Court to settle the outstanding matter of rent. However those rent negotiations have now effectively stalled with our offer of a stepped rent rising to £5,000pa by year 5, and the Scouts best and final counter offer of a stepped rental rising to a guaranteed rent of £1,500 pa by year 6 with a top slice mechanism based on the proceeds of any operational surplus they may declare up to a maximum of £5,000p.a (see appendix 1).

It is worth highlighting the observations of the District Valuer in his report who commented that the unique nature and character of this site and resulting absence of any direct comparable rental evidence makes an assessment of market rent extremely difficult. However, it is also fair to say that by negotiation, both your Officers and the Scouts are broadly in agreement that the wider occupational market would not consider a market rent of £5,000pa to be excessive. The nuance of the Scouts best and final offer is therefore not how much the rent should be, but instead how much they can afford to pay (see appendix 2).

The resulting question for Members is should this Authority as a public body accept a discounted rent from the Scouts based on their status to allow them to remain in occupation at a substantially discounted rent, or is it reasonable and appropriate to require a market rent following the advice from the District Valuer and to establish that level of rent by offering the site to the wider market of potential occupiers.

Financial, Risk & Compliance Considerations

Any lease renewal to the tenant at less than market rental value would need to be justified by this Authority in accordance with the principle of supporting/subsidising ongoing community use. Whilst there are existing precedents of the Authority disposing of assets at less than market value under this principle, it has not yet been extended to revenue generating occupational leases.

Human Rights/Equality Issues

No issues providing we follow the correct procedures as set out within the Landlord & Tenant Act 1954.

Biodiversity Implications/Sustainability Appraisal

The relevant tissues relating to the Scouts proposed on going occupation of the site have already been provided for in the provisionally agreed Heads of Terms.

Welsh Language Statement

No issues.

Conclusion

The unresolved issue in this matter extends beyond a difference of opinion over rent. Instead, it is the principle of whether the Authority should treat one occupier (in this instance the Scouts) to more favourable financial terms and conditions than we might reasonable expect to achieve from the wider occupier market when the site and its appeal has never been market tested.

RECOMENDATION:

That Members consider the outstanding issue as summarised in this report and resolve to either accept the Scouts best and final offer as outlined above leading to the documentation of a new lease to the Scouts at a discounted rent, or instruct your officers to reject the Scouts best and final offer and seek the Courts determination on rent as provided for under the existing Sec 25 notice resulting in two possible scenarios:

- 1. The Scouts remain in occupation under the terms of a new lease paying a market rent determined by the Court**
- 2. The Scouts are unable to commit to the level of rent set by the Court resulting in them surrendering the site back to this Authority with full vacant possession.**

Appendix 1

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Your Ref.

Our Ref.

Please Reply to:

22 December 2016

CH/DEST/8400

Haverfordwest

Gary Meopham Esq
Estates Officer
Pembrokeshire Coast National Park Authority
Llanion Park
Pembroke Dock
SA72 6DY

WITHOUT PREJUDICE

Dear Gary

PEMBROKESHIRE SCOUTS: ST. BRIDES SCOUT COTTAGES & WALLED GARDEN

Further to our meeting to discuss the Lease renewal of the above, the Scout Executive Committee has recently discussed new rental levels along the lines of a stepped rental.

At present, the surplus over operating costs for the site is in the region of £1,500 - £2,000 per annum which is ploughed back into investment and improvement of the facilities. Once the rental is increased above £1,500 per annum, there is considerable risk that this would have to be subsidised by the Scouts upon a countywide basis.

The Scout Executive Committee are therefore proposing a stepped rental but, from Year 3 onwards, the rental would be linked in part to operating surplus. The figures are as follows:

Year 1 : £1,000 pa
Year 2 : £1,500 pa
Year 3 : £1,500 pa plus 100% of any operating surplus up to a maximum rental of £2,500 pa.
Year 4 : £1,500 pa plus 100% of operating surplus up to a maximum rental of £3,000 pa
Year 5 : £1,500 pa plus 100% of operating surplus up to a maximum rental of £3,500 pa.
Year 6 : £1,500 pa plus 100% of operating surplus up to a maximum rental of £5,000 pa.

At the end of the 10th year, the base rental of £1,500pa would be indexed linked to the CPI from that date, plus 100% of operating surplus up to a maximum rental of £5,000 pa (also indexed linked from the date). The Lease would be for 25 years, with further rent reviews at the 15th and 20th years, again using the index-linking methodology.

The Scouts would make their accounts available for scrutiny, and would work in partnership with the Authority in maintaining and developing the site.



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I should emphasise that the Scouts are not prepared to relinquish their currently enjoyed rights to security of tenure and compensation for improvements at the end of the Lease except that, if the Scouts were not to renew the tenancy at the end of the term, no compensation would be payable.

Would you let me have your views upon this proposal please from an Officer viewpoint? We believe that this serves the stated purposes of your Authority in promoting access and enjoyment of the National Park. Once we reach a position where you are able to make a recommendation to your Authority, I am sure that the Scouts will wish to submit a supporting letter to be put before the NPA Members.

The present position is that I will need to seek the approval of the wider scouting membership of Pembrokeshire to this proposal, once I know that this has the support of your Chief Executive and Senior Management Team.

I look forward to hearing from you. However, if you would like a further meeting, please let me know.

Yours sincerely

Christopher Hunter FRICS
Director
R K Lucas & Son

Appendix 2

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PEMBROKESHIRE SCOUT COUNCIL

Charities Reg. No. 513013

8th March 2017

1 The Close
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Email : ted@sangster.org.uk

Tegryn Jones
Chief Executive
Pembrokeshire Coast National Park Authority

By email : TegrynJ@pembrokeshirecoast.org.uk

Dear Tegryn,

ST BRIDES COTTAGES AND CAMP SITE

At the NPA meeting of 16th March last year an officer's paper on an application by Pembrokeshire Scouts for a long-term lease on St Brides was discussed. Whilst this was refused and a decision was taken to issue a Section 25 notice to finish the existing tenancy on 1st May 2017 our understanding was that the expectation of members was that the intervening period would allow for further discussion and a hoped-for agreement on the terms of a new lease that both parties would find acceptable.

Given that we have already accepted all the operating conditions of the proposed new lease the only areas remaining to be agreed were those around the level of rent. Therefore, in preparing for this we engaged Chris Hunter of R K Lucas to undertake a market valuation of St Brides. His subsequent report, a copy of which I enclose, placed a market rent as between £2,500 to £3,000 per annum - far less than the £8,250 figure arrived at by the District Valuer's assessment on which the report and officer's recommendations to the NPA was based.

Following receipt of his report Chris continued to advise us and then undertook discussions and negotiations on our behalf with Gary Meopham.

Chris now tells me that he and Gary have reached a position whereby all is agreed including a target rent of £5,000 pa apart from a willingness to agree that after a lead in period any rent over £1,500 pa should be related to the Scouts' ability to pay. I attach a copy of Chris' letter of 22nd December setting out the basis of the offer that he made on our behalf which outlines the detail.

Pembrokeshire Coast National Park Authority
National Park Authority - 29 March 2017



PEMBROKESHIRE SCOUT COUNCIL

Charities Reg. No. 513013

Thus, we have made considerable progress from our position last March in moving from a rent of £200 to a guarantee of £1,500 and the opportunity of increasing this to £5,000 provided that our income after agreed costs (which we would agree with the NPA and make our accounts open for inspection) allow us to do so. However, Chris and Gary using their professional expertise based around a market approach have reached an impasse and there is little point in them seeking to negotiate further.

Therefore, we would ask that our application for a long term lease on the operating conditions already agreed and with rent levels as outlined in Chris' letter is put to the NPA as we believe that in taking a wider view beyond the factor of the rent passing an agreement can be reached that benefits both the NPA and Pembrokeshire Scouts.

In particular we would ask the NPA to take into account that Pembrokeshire Scouts :

- Have our 35 years of successfully working in partnership with the PCNPA and developing and maintaining the site
- Put in significant investment in money, volunteer time and goodwill from others in restoring a derelict site (we have pictures to demonstrate this) to a valued and well used camping facility
- Are committed to using and managing the site in a way that protects and enhances its heritage and environmental characteristics;
- Will continue to invest to improve the buildings and the whole site
- Have and will continue to work closely with your Rangers in allowing and promoting public access and enjoyment of the site and its surrounds and enabling PCNPA to arrange and promote an increasing number of their own events using the site;
- Will continue to bring young people from Pembrokeshire and across the UK to use and enjoy the site and in so doing further the Park purposes
- And that the proposed developments would bring back into use the indoor accommodation in the cottages that would improve our ability to take bookings (and increase income) over a greater period of the year and by a wider range of users - young children for example.



PEMBROKESHIRE SCOUT COUNCIL

Charities Reg. No. 513013

Given some of the queries made by members when this was discussed previously could I also make it clear that whilst Scouting is the UK's largest mixed youth movement there is no central direction or funding for the use of facilities such as we have been using at St Brides. Such arrangements and funding are down to the local Scout Area (County) organisation although there is of course central advice and guidance given as to appropriate legal agreements and governance structures for running such facilities. Thus, all the costs of running such a site, including rent, has to come from the Pembrokeshire Scout Area's own resources.

We are confident that with a long-term lease we can secure grant funding from a range of bodies to undertake developments – with a new toilet block and refurbishment of the cottages being our prime intentions.

We have also got commitment from a range of local businesses with an interest in and commitment to scouting to provide financial and practical support to such development, but it has been made clear to us that this cannot be used to pay rent or any other normal running costs.

If we cannot agree on a way forward the potential outcome is that Pembrokeshire Scouts withdraw from St Brides leaving the site to be run directly by the NPA, sold or leased to another party. It is unlikely that this would be financially beneficial to PCNPA as we use a lot of voluntary labour to run and maintain the site which would not be available to the same extent to the NPA or other parties thus increasing the running costs.

Similarly the fees charged by Scouts have been benchmarked with similar facilities across Wales and are at market level so could not be significantly increased without impacting on numbers using the site. Some information on this is provided in the Appendix. It is also likely that any NPA or other party use would find the present facilities, especially the toilet block, to be below open market standards and have to face the cost of refurbishment (as the Scouts are seeking to do on the back of a long term lease).

Of course a change of use to refurbishment of the cottages and the site for commercial holiday lettings would be a possibility but this would be a major change in the PCNPA's vision for the site and we are told (and agree) would be unacceptable.



PEMBROKESHIRE SCOUT COUNCIL

Charities Reg. No. 513013

However, working co-operatively together as we have done for the past 35 years will enable this site to be preserved, improved and used to the benefit of young people across the UK and underpin the Park's purpose in promoting the enjoyment of and access to our natural environment.

If I can provide any further information to assist consideration of our request, which I understand could be brought to the NPA meeting on 29th March, please let me know.

I look forward to hearing from you.

Yours sincerely,



Ted Sangster
Chairman
Executive Committee
Pembrokeshire Scouts

Encs.