

**HYTHE SAILING CLUB****1. BACKGROUND**

- 1.1 In 1963 the Rural District Council of New Forest granted a 21 year lease of the land edged red on the attached plan paying a rent of £120 per annum with the option to grant a further 21 year lease at £150 per annum. Therefore this is the first opportunity the Council has had to review the rent.
- 1.2 The Club currently occupy 1.12 hectares (2.77 acres) of land above mean high water mark and is the largest area of land this Council leased to a sailing throughout the district. They also have exclusive occupation of 4.11 hectares (10.15 acres) of foreshore which amounts to a total of 5.23 hectares or (12.92 acres) and have been paying a rent which was agreed in 1963.
- 1.3 As the Club has evolved it has become predominantly used by cruiser sailors who store their boats in 133 marked spaces in the winter months whereby they can repair their boats for the summer season.
- 1.4 The Club also store tenders which are used to taxi between the Club and the moorings and a number sailing dinghies. A new clubhouse and car park were built by the Club in the early 1990's. The clubhouse is built over two storeys with predominately wet changing facilities on the ground floor and lift to the licensed bar, eating and social area on the first floor.
- 1.5 The Club confirmed they wish to enter into another lease of the same area to continue operating as a sailing club. They currently have 123 individual, 155 family and 32 cadet memberships, making a total of 310 memberships.

**2. CURRENT SITUATION**

- 2.1 Notice was served on the Club in 2004 indicating that upon the expiry of the lease the Council would not object to the granting another tenancy. At that time it was recommended that the Club seek professional advice in respect of this lease renewal and they duly instructed Mr J. R. Lear of Vail Williams Property Consultants.
- 2.2. Most of the terms of the lease have been agreed with the Club and Mr Lear and officers however, the issue of rent remains unresolved. The rent should be assessed in line with the "open market rental value" (rental) of the premises, excluding the clubhouse building which is classed as a tenant's improvement.
- 2.3. As the lease renewal negotiations have progressed over the last year, officers have assessed the rental in line with the Council's leases to other sailing clubs and adjusted it to reflect the unique circumstance of the site. The Council's last rental offer was £26,900 per annum.
- 2.4. The best offer made by the Club to date has been £9,240 per annum.

- 2.5. Officers were concerned over the significant difference of opinion between the parties and instructed the Valuation Office to carry out an independent assessment of the rental applicable to the premises. The Valuation Offices opinion is that an open market rental value, lies between £22,000 and £28,000 pounds per annum.
- 2.6. The Club currently charge their members £136 to store a 27ft cruiser boats for six months. However if they were to go to a private boat storage compound they would pay between £547-765 for six months. Officers are of the view that if the Club charged a more realistic level for boat storage they would be able to significantly increase their cash flow.
- 2.7. The Club however maintain that they would loose some of their existing members if they were to increase their charges and this has been a driving factor in their consideration of rent rather than assessing the rent to reflect a realistic open market assessment.
- 2.8. Furthermore notwithstanding that Mr Lear was engaged as the Clubs representative, he has confirmed to officers that he has been in contact with the Royal Yachting Association (RYA). At a recent meeting he explained he was not happy with the precedent that would be set if we negotiated a revised rent based on the full rent as this would become a comparable for other sailing clubs. It is not clear therefore how much of the Clubs offer is dictated by their reluctance to pay and how much is dictated by the desire not to create a precedent for other settlements.
- 2.9. Officers are of the opinion that all avenues of negotiation to resolve the rent have reached their logical conclusion. Therefore either party can apply to the courts to determine the rent and other lease obligations. This would involve considerable expense to the Council and to the Club.

### **3. POLICIES AND PRECEDENTS**

- 3.1 In 1997 a policy was approved that certain community organisations may pay a reduced rent amounting to a subsidy at source if they can demonstrate that they are unable to increase their income sufficiently to pay full rental. In exceptional circumstances where organisations have been able to demonstrate true financial hardship a subsidised rent equivalent to 12½% of the open market value has been agreed by Members.
- 3.2 Keyhaven Sea Scouts were granted a reduced rent under the policy mentioned in 3.1 of this report in 1998. However they provided three years audited accounts and under the terms of the lease will operate under The Scout Association's Royal Charter. However, sailing clubs have less restrictions upon the way they operate.
- 3.3 It has been established between a number of Council's with coastal land interests that there is market for sailing clubs. If there was no land available for sailing clubs their members would have to pay commercial rates to store their boat etc (see paragraph 2.6). The other sailing clubs on Council land have paid a market rent for many years that is comparable to those charged by adjoining Council's. To date, none of the other sailing clubs have sought to reduce their rent on the basis of financial hardship.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 The lease renewal gives the Council the opportunity to significantly increase the rental income derived from this site which officers believe has been fairly assessed in the region of £26,900 per annum.
- 4.2 Under the policy mentioned in paragraph 3.1a subsidised rent would equate to £3363 per annum.
- 4.3 The Clubs offer of settlement at £9,240 per annum is significantly higher than the current passing rent of £150 per annum, however falls £17,660 per annum short of the true open market sum.
- 4.4 The Club have now provided five years audited accounts which shows their profit loss account is variable, however they about breakeven each year, have no long term debt and are financed by equity. Although the Club's offer is in excess of the subsidised rental level, these accounts do not show whether there is the potential to generate additional income. Officers are concerned that it may be inappropriate in these circumstances, where an organisation has the ability to improve their financial situation but have chosen not to do so, to accept a financial hardship argument.

#### **5. ENVIRONMENTAL / LAW AND DISORDER IMPLICATIONS**

- 5.1 There are no implications arising from this report.

#### **6. PORTFOLIO HOLDER'S COMMENTS**

- 6.1 As Portfolio Holder responsible for the assets of the Council, I recommend that a fair market rent be charged.

#### **7. CONCLUSION**

- 7.1 Hythe Sailing Club has provided residents of Waterside the opportunity to partake in sailing activities from this site over the past 42 years, at a rent agreed in 1963.
- 7.2 The Clubs request to receive a reduction in the rent represents a 65% discount in the open market rental value of the premises, which has been assessed by both officers and the Valuation Office.
- 7.3 Although the offer of settlement made by the Club is higher than the subsidized level, in the view of officer's they have not demonstrated that they have sort to maximise their income which cannot be reflected in their accounts, therefore they have only established a financial hardship case, if their fees remained at a similar level.
- 7.4 If we are unable to settle terms between the parties it is likely that the matter will have to be referred to the courts.
- 7.5 Notwithstanding any settlement that may be agreed now the new lease will give the parties the opportunity to review the rent in 5 years time.

## **8. RECOMMENDATION**

- 8.1 Officers recommend Members support the approach to seek a settlement at full market rental.

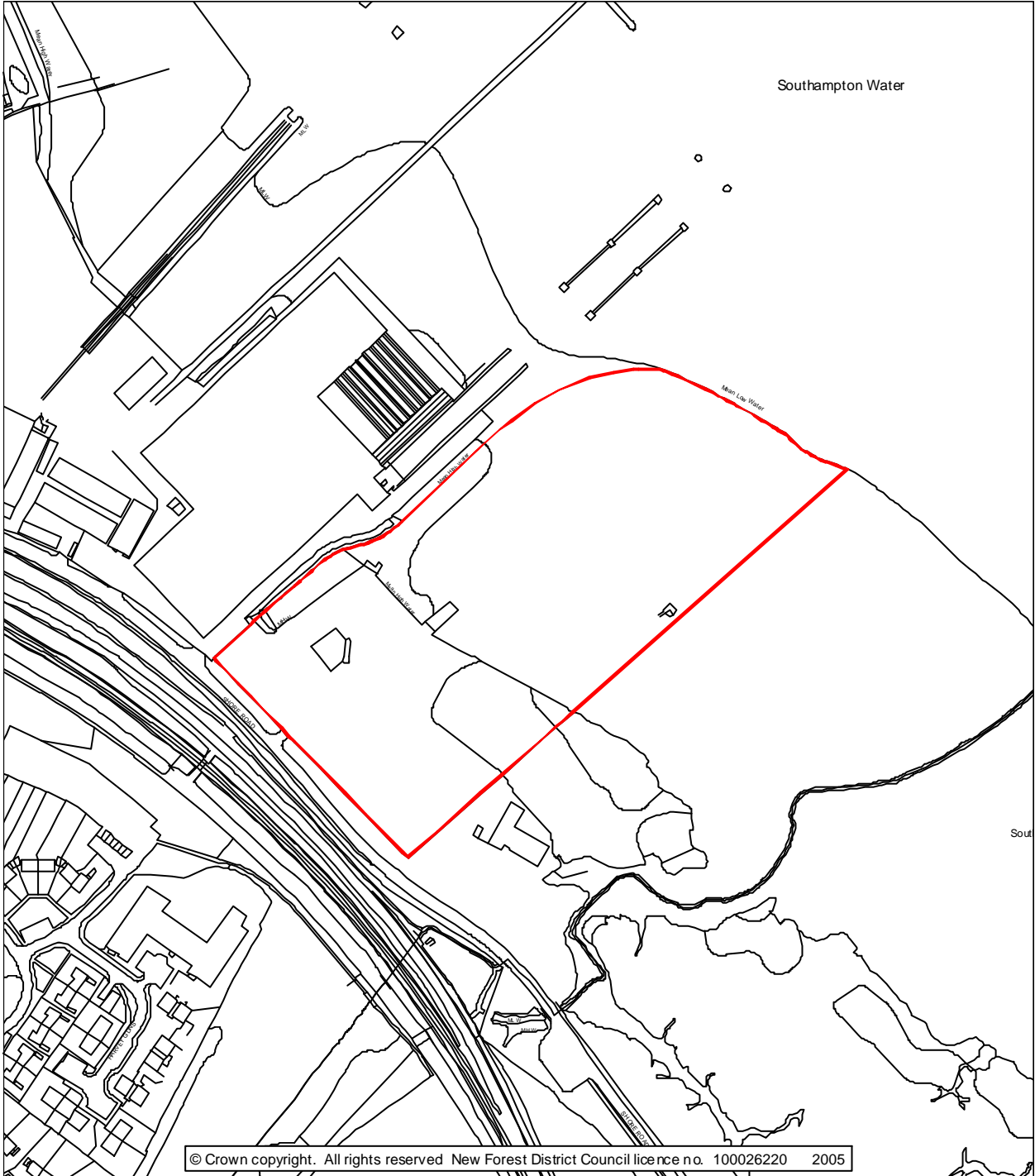
### **FURTHER INFORMATION**

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### **BACKGROUND PAPERS**

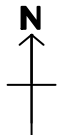
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RY/Word/Reports/2005/Stuart Yeo/CMT – 9 November 2005 Hythe Sailing Club



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**Date** 07/11/05

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