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Date: *17 October 2011*

NOTIFICATION OF PORTFOLIO HOLDER DECISIONS

On 17 October 2011, Cllr Mrs D M Brooks, the Health & Leisure Portfolio Holder and Cllr C A Wise, the Finance & Efficiency Portfolio Holder, made the following decision. Any member of the Council, who is not a Portfolio Holder, who considers that this decision should be reviewed should give notice to the Monitoring Officer (Grainne O'Rourke) (in writing or by e-mail) to be received **ON OR BY 5.15 P.M. ON MONDAY, 24 OCTOBER 2011.**

Details of the documents the Portfolio Holder considered are attached.

DECISION:

To vary a lease to land at Deneside Copse, Lymington

REASON(S):

See report.

ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

See report.

CONFLICTS OF INTEREST DECLARED:

None.

For Further Information Please Contact:

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DENESIDE COPSE, PENNINGTON – VARIATION OF LEASE

1. INTRODUCTION

- 1.1 The purpose of this report is to consider a request by Lymington and Pennington Town Council to vary the terms of a lease between District Council and the Town Council on land at Deneside Copse, Pennington.
- 1.2 A variation to the lease is required to enable the Town Council to use the land, leased as public open space, for the provision of allotments.

2. BACKGROUND

- 2.1 New Forest District Council lease land at Deneside Copse to Lymington and Pennington Town Council for a term of 999 years from 2003. The lease states that the land is to be used only for the purposes of amenity land for public open space for recreational use.
- 2.2 When the land was originally designated as public open space it was proposed that part of the site would be suitable for use as allotments thus establishing a planning precedent for such a use in this location.
- 2.3 Allotments may either be Statutory or Non Statutory, the former having much greater statutory protection and security.

3. PROPOSAL

- 3.1 The lease to Lymington and Pennington Town Council would need to be amended to authorise part of the site being used for allotments. This is required for a number of reasons. Firstly the use of the land for allotments would be inconsistent with the use permitted under the lease, as the District Council does not consider that allotments fall within the definition of “public open space”. Secondly the lease prohibits the erection of any buildings which may be required as ancillary to the use as allotments and finally the lease prohibits the Town Council from sub-letting any part of the land without obtaining the District Council’s prior written consent.
- 3.2 The Town Council are seeking a commitment from the District Council that they will agree to a variation of the lease to empower them to continue to develop the proposals free of the risk that the proposed use is in conflict with the lease terms. The Town Council will work with the District in developing a suitable scheme and the District Council’s consent to the final proposal will be required and a formal lease variation completed before implementation actually takes place.

- 3.3 The variation to the lease will state that the Town Council should take steps to ensure that the allotments do not acquire statutory status. However, in some circumstances allotments can become “statutory” despite efforts to ensure that this is avoided. The lease variation will therefore also require that should the allotments acquire statutory status, any obligation to pay compensation (should the Town Council cease to use the land for allotments in future) will fall to the Town Council.
- 3.4 The Town Council has informed the District Council that there is a need for allotments in the town and this proposal would enable an improvement in provision.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no financial implications for the District Council arising from this report.

5. ENVIRONMENTAL IMPLICATIONS

- 5.1 There are no direct environmental implications arising from this report.

6. CRIME AND DISORDER

- 6.1 There are no Crime and Disorder implications arising from this report.

7. CONSULTATIONS

- 7.1 The Town Council consulted the residents of Deneside Copse and people on the waiting list for allotments regarding the proposal. The Town Council has confirmed to the District Council that it will continue to consult in the development of the scheme. In response to its consultation, the Town Council informed the District Council that it received a petition signed by all but 3 residents of Deneside Copse, objecting to the proposed allotments at this location, together with three further letters of objection. The Town Council received support for its proposal to create allotments from many of those on the current waiting list for an allotment. The variation of lease terms will be dependent upon a scheme being devised which shall need to be approved by the District Council.

8. CONCLUSIONS

- 8.1 The District Council has been informed by the Town Council that there is an outstanding need for allotment land in the Lymington and Pennington area, while land at Deneside Copse has been identified for such a use.
- 8.2 A letter confirming that the District Council is prepared to vary the lease to permit use of part of the land for allotments would empower the Town Council to work towards developing a satisfactory scheme.

9. RECOMMENDATION

- 9.1 It is recommended that the District Council provide the Town Council with a letter confirming that the District Council will vary the lease to authorise the use of land for allotments, in accordance with the considerations set out in Section 3 of this report, if a formal decision is reached by the Town Council to proceed with the scheme. That a variation to the lease will be subject to a suitable scheme being designed and the District Council approving the final design and layout.

Councillor Di Brooks
Portfolio Holder Health and Leisure

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Councillor Colin Wise
Portfolio Holder for Finance and Efficiency

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Date: 17 October 2011

Date Notice of Decision Given: 17 October 2011

Last date for call-in: 24 October 2011