

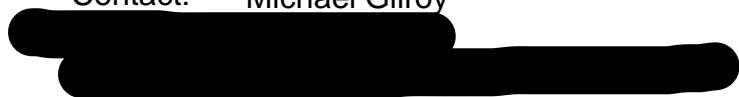


Northumberland County Council

County Hall Morpeth Northumberland NE61 2EF

Ashington Town Council
65 Station Road
Ashington
Northumberland
NE63 8RX

Our Ref:
Your Ref: Ashington play areas
Contact: Michael Gilroy



Date: 8th March 2024

**WITHOUT PREJUDICE
SUBJECT TO CONTRACT
SUBJECT TO NECESSARY CONSENTS**

Dear Sarah

Lease Offer – Alexandra Road, North Seaton Colliery, Paddock Wood & People's Park play areas, Ashington

I am prepared to recommend that the Council grant a lease of the above premises. The terms will be those contained in the Council's standard form of lease, as summarised below together with such other terms and conditions as the Head of Legal Services considers appropriate.

The main terms and conditions to which the Lessee will be required to agree will include the following:

- | | | |
|----|---------------------|---|
| 1. | LESSOR | Northumberland County Council ("The Council") |
| 2. | LESSEE | Ashington Town Council |
| 3. | PREMISES | As shown edged red on the attached location plans |
| 4. | TERM | 25 years commencing from a date to be agreed |
| 5. | RENT | £peppercorn per annum, exclusive of VAT and rates |
| 6. | RENT REVIEWS | n/a |
| 7. | BREAK CLAUSE | The Lessee can terminate the lease on every 5th anniversary of the lease commencement date by |



giving the Lessor at least 6 month's notice in writing

8. **EXPIRY OF TERM** Upon the expiry of the lease the Lessee shall leave the play areas in situ & in good repair & condition unless the Lessor requests that any equipment & fencing is removed and any damage caused to the Council's land is made good
9. **REPAIRS**

The Lessee is to keep the Play Areas in good repair & condition including all surfaces, paths & fencing and replace any damaged equipment and install any new equipment to upgrade the facilities

The Lessee will keep any grass within the play areas regularly cut & trimmed
10. **LANDLORD AND TENANT ACT 1954** The terms of the lease will not provide Security of Tenure beyond the end of the term as the lease will be outside of the protection of the Landlord and Tenant Act 1954.
11. **ASSIGNMENT** The Lessee is not to sub-let, assign, charge or share possession the whole or any part of the premises
12. **ALTERATIONS**

The Lessee shall not carry out any structural alterations or additions to the premises without the Lessors prior written consent. Such consent not to be unreasonably withheld by the Council

The Lessor consents to the Lessee replacing and improving the play area equipment without Landlord consent
13. **USE** To use the premises as play areas for the community
14. **INSURANCE** The Lessee is to put in place a policy for the whole premises, including any equipment, contents, public and employers liability sufficient to indemnify the Council against all claims arising out of the Lessee's use of the premises, including malicious damage to the premises by third parties.
15. **GENERAL**
 - a) To be responsible for complying with all requirements of the Health and Safety Legislation and the Fire Precautions and to bear the cost of any such compliance
 - b) The provision of litter bins and removal of all litter from the Property
 - c) Not to store anything on the open land

- d) To be responsible for the payment of any rates, taxes, charges, outgoings including all utility payments
- e) To carry out all inspections of the play areas & equipment on a regular basis
- f) Not to permit or conduct any commercial sale by auction or otherwise in or on the premises

16. PREMISES SUITABILITY

No warranty is given as to the condition of the Premises and the Lessee must satisfy itself as to the same and its suitability for use and (without prejudice to the generality of the foregoing). In carrying out any works at the Premises the Lessee shall act with all due caution and take all appropriate health and safety & building regulation advice before commencing any such works along with obtaining any necessary planning consent.

17. COSTS

The Lessee is responsible for the Lessors costs of £550 (£300 Legal fees and £250 Surveyor fees) and for their own costs in the preparation of the Lease Agreement and Counterpart

The Lessee is responsible for the costs involved to advertise the disposal of public open space by way of a lease, which the Lessor is required to advertise in the local newspaper on 2 consecutive weeks of approximately £700 + VAT x4 = approximately £2,800 + VAT.

This cost is payable regardless of whether the lease proceeds or not after the advertisement and the Lessor will consider any comments or objections that may be received.

We would recommend that before progressing any further you should seek advice from a Solicitor or Chartered Surveyor to ensure that you fully understand the implications of these terms.

I shall be pleased if you will forward to me your written acceptance of the terms, as soon as possible, in order that the necessary approvals can be sought and a Lease can be prepared.

Yours sincerely

Michael Gilroy
Surveyor

Strategic Estates Department

I agree with the above terms and conditions	
Signed
On behalf of Ashington Town Council	
.....	
Dated

RFO Note and questions to NCC Strategic Estates

The relevant legislation (Local Government Act 1972, Section 123) requires advertising of intended disposal if the land is designated as public open space, which it is, but with the intention to give the public an opportunity to object if the disposal would result in the loss of public open space or a change in its use. As the play area is simply being leased out to the Town Council to be maintained and operated as a public play area, I would question whether strict legal advertising requirements apply, as there is no proposed change of use or loss of the public open space. Use is set out in clause 13.

Can you confirm if you understand this to be a statutory obligation, or if this is your own internal policy or interpretation, please?

NCC Strategic Estates

As there is a disposal (by way of a lease) then legally NCC need to advertise these disposals under section 123 of the Local Government Act 1972 & consider any objections that may come forward which is part of the advertising process. As the use of the land is to remain the same as play areas for the community, then hopefully the disposals shouldn't be contentious. Our legal team have also confirmed that we do require to follow this process.

RFO Note and response to NCC Strategic Estates

The exception from advertising in Section 123(2)(c) applies to leases "not exceeding seven years". While pursuing a 7-year lease instead of a 25-year lease may save £2,400 in advertising costs, a shorter lease term could potentially restrict the availability of external funding for the Town Council to maintain and improve the assets effectively. Additionally, the requirement under Section 123 would likely become applicable before any extension is granted, potentially leading to further costs down the line.

I understand the desire to pass on the costs associated with complying with Section 123 of the Local Government Act 1972 to Ashington Town Council, but as the lower tier of local government taking on an asset that belongs to NCC, I would like to respectfully raise a few points for your consideration. I expect this would need to be raised elsewhere, and I would appreciate your advice on this.

1. The requirement to advertise disposals under Section 123 is a statutory obligation imposed on principal local authorities like NCC. While I understand the rationale behind seeking to transfer these costs, it seems questionable whether it is appropriate to pass on the costs of complying with your own statutory duties to a lower tier authority.
2. Can you advise when NCC began to pass this charge onto Town and Parish Councils, as I have no recollection of incurring these costs in the past? If there is no established precedent or past practice of doing so, it may be perceived as unfair to introduce such charges now, especially in the context that these play areas have been being managed by the town council for some time.
3. The devolution of services like play area management to Town and Parish Councils is a policy that NCC has actively pursued. Imposing additional costs on these lower tiers for taking on devolved services could potentially undermine the spirit of devolution.
4. Rather than seeking to pass on costs, could NCC consider absorbing these costs as part of its statutory obligations, while Ashington Town Council takes on the long-term responsibility for managing and maintaining the asset effectively.

I would be grateful if you could advise who it would be best to raise these concerns with for further consideration. As the Council's section 151 officer my role is to ensure that public funds are being used efficiently and in accordance with relevant legal and governance principles, and this spending does concern me.