### Purpose of Report:

To inform members of the Executive of an approach from Workington Town RLFC to be allowed to re-negotiate, with the consent of the Council, the existing mobile phone mast lease arrangement to extend the term and enable the Club to access a single up-front premium payment on the completion of a new 99-year lease of the mast site.

### Recommendation:

1. Committee is asked to consider whether it is prepared to support the request for the Rugby Club to be allowed to grant a 99-year sub-lease of a mobile phone mast site at Derwent Park to allow the Club to secure a premium receipt.

2. If Committee supports the request, would it be prepared to forego its entitlement to a payment in exchange for its consent to the new arrangement to assist the Club to access the maximum amount of premium being offered.

### Environmental Implications:

No environmental implications. The mobile phone mast already exists, the approach from the Club is intended to extend the period of occupation of the site.

### Community Safety Implications:

The perception that mobile phone masts in public places may present a danger to health.

### Financial Implications:

In exchange for its consent to allow a new lease to be granted the Council would be entitled to receive a consent fee based on a share of the premium sum offered to the Club and which would be subject to negotiation.

### Human Rights Implications:

None.

### Employment Implications:

None.
Health and Safety and Risk Management: Agreement to the Club’s request would result in the existing site being available to accommodate a mobile phone mast for the next 99 years. In the event that concerns were raised regarding the perceived Health and Safety issues which surround such installations resulting from a redevelopment of Derwent Park there would be very little that the Council could do to force the removal or relocation of the mast.

Ward Affected: St. Michael’s, Workington

The Contribution this Decision would make to the Council's Key Aims: None.

Portfolio Holder: Councillor Alan Smith.

Lead Member of Staff: Valuation Officer – John Windsor (01900)702762

(A detailed listed of implications is appended to the report)

1.0 Introduction

1.1 Workington Town RUFC occupies Derwent Park by way of a Ground Lease originally granted by Workington Urban District Council for a term of 198 years from July 1956 currently paying a rental of £2,000.00 per annum to the Council.

2.0 Content

2.1 The Rugby Club approached the Borough Council in 1998 seeking the Council’s consent to be allowed to sub-let a small site within Derwent Park and adjacent to the railway line to accommodate a mobile phone mast. The Club was in financial difficulties at the time and the letting of the site would enable it to obtain a helpful rental receipt. The agreement was for 10 years and was capable of termination after the third anniversary of the agreement on the giving of 12-months notice. The Borough Council supported the request, providing its consent and obtained a small consent fee.

2.2 In 2003 the Council gave a further consent permitting the Club to grant a new 15-year lease of the site to Vodaphone. The Council supported this as an opportunity for the Rugby Club to access additional rental income and did not seek a fee. However unfortunately the Club did not make the Council aware of the fact that the new agreement could not be terminated until 2013 at the earliest.

2.3 The Club is now seeking the Council’s permission to be allowed to sub-let the Radio Mast site to a company called Radiosite Ltd. who will in turn let the site to Vodaphone.
The new lease will be for a term of 99 years and the Club will receive a single lump sum payment from Radiosite. The Agreement will also require the Council to consent to the use of the site to accommodate the mobile phone mast for the full 99 years, the current consent only being for a remaining period of 12 years (although earlier termination in 2013 could be pursued).

Simply put the Club and hence the Council will be disposing of the radio mast site for 99 years and the sub-tenant will be entitled to quiet enjoyment of the site for the full term without interference from the Council. The Council would be powerless to insist on the removal or relocation of the mast.

The Club is aware that the Council has some reservations about a permanent arrangement, especially if perceived Health and Safety concerns require the mast to be removed or relocated. These concerns could become particularly relevant in terms of the Council’s Derwent Valley aspirations for the area. Whilst there is no evidence based on current research to suggest that electro magnetic fields cause long-term health risks it is acknowledged that further research is needed. However there is a public perception regarding such facilities which generates emotive debate regarding the location of such masts. Whilst the physical location of this particular mast adjacent to the railway line should not interfere with any redevelopment of Derwent Park the Council could be faced with a recommendation to relocate the mast which will incur considerable relocation costs and possible rental compensation to the site operator.

It could be argued that in permitting the Club to renegotiate its lease agreement in 2003 that flexibility over the location of the mast has been seriously prejudiced anyway. Whilst it likely that the mast operator would be willing to consider Council proposals in connection with any need to relocate the mast should the Derwent Valley project so require, the full cost would be borne by the Council and these costs will inevitably increase in agreeing to the Club’s latest request. If however the Council’s developing Derwent Valley aspirations subsequently exclude the redevelopment of Derwent Park then the practicalities of the new lease arrangement being proposed by the Club should be of little concern to the Council. However should the Rugby Club’s lease be surrendered back to the Council as part of a Derwent Valley project, the Borough Council would need to deal directly with the sub-tenant – Radiosite Ltd. and the mast operator – currently Vodaphone, and will be required to underwrite all the costs arising. Should the Council agree to the Club’s request its consent does have monetary value and the Council would be entitled to a payment in exchange for its consent. The Club will be assuming that the Council would not require a payment in this case as they are “The Rugby Club”.

In agreeing to the arrangement the Council does need to be aware that it will loose what limited control it has of the radio mast site, not a problem if it is happy for the site to remain where it is. However public Health and Safety perception of mobile phone mast sites may result in the Council being embarrassed if there is pressure on the Council in the future to relocate the site if Derwent Park is ever redeveloped for public recreation purposes.

Conclusions

The two main issues are:-
3.1 Is the Council prepared to forego control of the mobile phone mast site for 99 years to enable the Club to access a much-needed capital payment?

3.2 Is the Council prepared to forego its entitlement to a payment in exchange for its consent to the new arrangement – again to assist the Club to access the maximum amount of lump sum?

3.3 The recommendation of the Executive Committee is sought as to how to respond to the Club’s request.

J L A WINDSOR
VALUATION OFFICER

Report Implications

Please delete where applicable.

<table>
<thead>
<tr>
<th>Category</th>
<th>Y</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Safety</td>
<td>N</td>
<td>Y</td>
</tr>
<tr>
<td>Financial</td>
<td>Y</td>
<td>Y</td>
</tr>
<tr>
<td>Legal</td>
<td>Y</td>
<td>N</td>
</tr>
<tr>
<td>Social Inclusion</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Human Rights</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Youth Issues</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Ethnic Minority Issues</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Older People Issues</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Disability Issues</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Employment (external to the Council)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Employment (internal)</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Environmental/sustainability</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Environmental/visual</td>
<td>N</td>
<td>N</td>
</tr>
<tr>
<td>Health</td>
<td>N</td>
<td>Y</td>
</tr>
</tbody>
</table>

Is this a statutory recommendation? N

Is this a key decision? N

Has a risk assessment been undertaken? N

Wards affected: St. Michaels

Background papers: Copies of correspondence available from Valuation Officer