

Grant of Lease to Enable Funding

For Cabinet 4 February 2021

Summary

Lead Member: Councillor Tom Dawlings – Portfolio Holder for Finance and Governance

Lead Director: Lee Colyer Director of Finance, Policy & Development (S151 Officer)

Head of Service: David Candlin, Head of Economic Development and Property

Report Author: Max Horgan, Estates Surveyor

Classification: Public document (non-exempt)

Wards Affected: Pantiles and St Mark's Ward

Approval Timetable	Date
Management Board	16 December 2020
Portfolio Holder	16 November 2020
Finance & Governance	12 January 2021
Cabinet	04 February 2021

This report relates to the following corporate priorities:

To support a well borough – The provision of football within the borough enhances the health and well-being of residents.

Creating new sports facilities across the borough – The leasing of the site allows the Council and the Football Club to jointly apply for extra funding which will allow investment into the welfare/ changing facilities and pitch drainage.

Providing value – The lease to be agreed will be for best consideration and will reduce the Council's capital spent on grounds maintenance and repairs to the buildings on site.

Recommendations

Officer / Committee recommendations as supported by the Portfolio Holder:

1. To approve the letting of the land at Bayham Road, Tunbridge Wells as identified on the attached plan. The leasing of land is to be dealt with under delegated authority to the Head of Economic Development and Property in consultation with the Director of Finance, Policy and Development and the Portfolio Holder for Finance and Governance and

2. To delegate to the Head of Economic Development and Property in consultation with the Director of Finance, Policy and Development, the Monitoring Officer and the Portfolio Holder for Finance and Governance the authority to complete all necessary negotiations, legal processes and legal documentation to complete this lease.

1. Introduction and Background

- 1.1 The Constitution of the Council requires Cabinet Approval to the grant of any lease longer than 21 years. For this reason this paper has been prepared for Cabinet consideration.
- 1.2 In November 2017 the Council adopted the Playing Pitch Strategy which was updated in 2019. The report highlights the provision for the future development and management of pitches in the Borough.
- 1.3 In March of 2020 the Football Foundation in association with the Kent FA published their findings looking at the needs of grassroots and informal football in the area. Their survey identified Bayham as in need of further drainage enhancement to enable the whole site to be adequately drained (currently only 50% of the site has drainage) and to upgrade the existing welfare facilities to support junior football.
- 1.4 Tunbridge Wells Foresters Football Club caters for 522 children and youth teams during the football season for both training and matches. They currently run 35 teams and two mini squads with age ranges under 7 to under 18 for boys and under 9 to under 14 for girls with two senior ladies teams.
- 1.5 The Bayham Sport Pitches site has been classified in the Draft Local Plan 2019 as Open Space, Sport and Recreation. The current use will therefore not change and there are no Council plans that require the use of this land.
- 1.6 The Tunbridge Wells Foresters Football Club currently hire pitches on Bayham Road, Tunbridge Wells on a day by day basis via a hire agreement.
- 1.7 The Club approached Officers from the Parks and Leisure team to explore the possibility of licencing or leasing this land at Bayham Road.
- 1.8 Following these primary discussions between the Football Club and the Parks and Leisure Team, Property and Estates and Legal were consulted to advise on what type of agreement would be appropriate and to give advice on which key terms should be included. It was ascertained that a lease rather than a licence is necessary for the relevant funding to be obtained.
- 1.9 The buildings on the Bayham Road site have come to the end of their usable life and are no longer fit for purpose. Substantial renovation works are now required. The Council has allocated £75,500 of Section 106 contribution monies to the Bayham Road site for improvements to be made and this was approved in the 2020/2021 financial year.
- 1.10 The Foresters Football Club require a lease term of a minimum of 25 years for the Council and Football Club to jointly apply for funding and grants. This additional funding is required by both parties so that the surface water drainage and quality of

the buildings can be improved. An application has been made to the Football Foundation for extra capital for these works.

2. Options Considered

- 2.1 **Option 1:** That the Cabinet approves the granting of this 25 year lease to Tunbridge Wells Foresters Football Club to enable a joint application to be made for funding by the Foresters Football Club and Tunbridge Wells Borough Council.
- 2.2 **Option 2:** Do nothing - this would result in the Council and Football Club not being able to get the required funding. This may also result in the Football Club requesting the Council to pay for all required works without the benefit of funding.

3. Preferred Option and Reason

- 3.1 **Option 1:** That Cabinet approves the granting of this lease to enable funding to improve the provision of sport facilities within the Tunbridge Wells Borough.

4. Consultation on Options

- 4.1 This report is going through the due process in accordance with the Constitution.
- 4.2 Management Board approved the report for Finance & Governance Cabinet Advisory Board to consider on 12th January 2021.

5. Implementation

- 5.1 If Cabinet approves the granting of this lease the call in period will end after 5 clear days from the date the Cabinet decision is published.

6. Appendices and Background Documents

The following documents are to be published with and form part of the report:

- Appendix A: Plan of Site

7. Cross Cutting Issues

A. Legal (including the Human Rights Act)

The Local Government Act 1972, section 111(1) empowers a local authority to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions. This enables the Council as part of its asset management strategy to acquire and/or dispose of assets meeting relevant statutory requirements.

Section 123(2) of the 1972 Act enables the Council to dispose of land or property for the best consideration reasonably obtainable, otherwise the consent of the Secretary of State will be required subject to certain conditions.

Acting on the recommendations is within the Council's powers as set out in the above statutory provisions.

If the property forms part of open space land (as defined by statute) then the Council must advertise its intention to grant the lease in a local newspaper for two consecutive weeks and consider any objections to the proposed lease that may be made to them.

Human Rights Act

There are no consequences arising from the recommendation that adversely affect or interfere with individuals' rights and freedoms as set out in the Human Rights Act 1998

Claudette Valmond, Principal Solicitor - Commercial

B. Finance and Other Resources

This land is currently used by the Football club and will enable them to upgrade the facilities to a standard fit for purpose throughout the winter period, without recourse to Council funds. This will also save the council the administration of regular invoicing and property/land management.

Jane Fineman, Head of Finance, Procurement and Parking

C. Staffing

Work will be prioritised to be undertaken by permanent staff in order to deliver the aim and objective of this report.

Nicky Carter, Head of HR, Customer Service and Culture

D. Risk Management

Strong asset management should ensure that risks are quickly identified and that there are procedures in place to remedy them.

Max Horgan, Estates Surveyor

E. Environment and Sustainability

No issues.

Max Horgan, Estates Surveyor

F. Community Safety

There are no consequences of concern arising from this report.

Terry Hughes, Community Safety Manager

G. Equalities

Decision-makers are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have due regard to:

- (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,
- (ii) advance equality of opportunity between people from different groups, and
- (iii) foster good relations between people from different groups.

This report includes proposals which have the potential to support the aims of the duty to advance equality of opportunity and foster good relations between people from different groups with regard to:

- Seeking viable opportunities to work with local community groups to improve community facilities and establishing a sustainable platform from which the club would continue to provide sports and recreation accessible to people from different groups.

Ingrid Weatherup, Corporate Governance Officer

H. Data Protection

No specific issues.

Max Horgan, Estates Surveyor

I. Health and Safety

Currently there could be some liability towards TWBC for these areas when there is little control over the operations on site when used. A lease to the Football club of these buildings and fields would reduce liability for TWBC, especially as mentioned in the report the buildings are currently in poor condition.

Mike Catling, Corporate Health and Safety Advisor

J. Health and Wellbeing

Granting of this lease would improve the provision of local physical activity opportunities in the community. This long-term commitment to the sports pitch will encourage community based physical activity and social interaction for a range of ages which will promote mental and physical health and wellbeing.

Rebecca Bowers, Health Improvement Team Leader, 07/12/2020