

## **BARNSLEY METROPOLITAN BOROUGH COUNCIL**

**This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan**

### **Report of the Executive Director Core Services**

#### **GRANT OF NEW 22 YEAR LEASE BY THE COUNCIL AS TRUSTEE, TO HIGHAM CRICKET CLUB, OF THE CRICKET GROUND WHICH FORMS A PART OF LAND KNOWN AS HIGHAM MINERS INSTITUTE & RECREATION GROUND.**

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to consider the grant of a new 22 year lease to Higham Cricket Club (HCC) of their ground at Higham Common to replace two existing leases to HCC which expire in 2024 and 2029

#### **2. Recommendations**

- 2.1 **That subject to the statutory procedures under the Charities Act 2011 being complied with, the Council in its capacity as Trustee of Higham Miners Institute & Recreation Ground approves the proposal.**
- 2.2 **That the Service Director Assets be authorised to finalise heads of terms for the new lease to HCC.**
- 2.3 **That the Executive Director Core Services be authorised to complete the lease to HCC.**

#### **3. Introduction**

- 3.1 The cricket ground and adjacent recreation ground, known collectively as Higham Miners Institute and Recreation Ground is located off Royd Lane in Higham.
- 3.2 Since 1990 the Council has administered and managed the land in the capacity of Trustee of Higham Miners Institute & Recreation Ground (the Charity).
- 3.3 HCC hold a 25 year lease from 2004 of the part of the land that forms the cricket ground, at a rent of £340 per annum. Under this lease the Council were responsible for external repairs to the buildings on the demised land- the pavilion and a changing room block.
- 3.4 HCC submitted a successful application for funding to WREN, Sport England and BMBC (£106 monies) for improvements to their facilities which included the replacement of the existing pavilion. They have subsequently received planning permission for the new pavilion.

- 3.5 It was agreed that HCC would assume full repairing and insuring responsibility for the new pavilion and all other existing buildings on the demised land thereby relieving the Council of an ongoing cost liability.
- 3.6 HCC requested an extension to their lease which would be beneficial for obtaining further grants towards ongoing improvement and developments.
- 3.7 It was provisionally agreed that - subject to the usual consultation and approvals, the Council would accept a surrender of HCC's existing lease and grant a new 22 year lease at a nominal rent incorporating the new repairing liabilities.
- 3.8 Just prior to construction work commencing on the new pavilion in October 2017 it came to light that the pavilion was to be located on land outside of the area demised in HCC's lease. Without a lease of this land the funding bodies would not release the grant monies for the construction works.
- 3.9 In order for construction work to adhere to timetable, and without the approvals in place for the new 22 year lease, for reasons of expediency it was agreed that the Council would grant a 'temporary' 7 year lease of the additional land required . This was deemed acceptable by the funding bodies who would then release early stage funding to allow construction work to begin to timetable.
- 3.10 A new 7 year full repairing and insuring lease of the additional land was granted, and the existing 25 year lease was varied to reflect the same repairing and insuring liability.
- 3.11 Charities legislation allows for "charity-to-charity" transactions to be completed at less-than-best obtainable value, provided that the relevant authorisation can be obtained and the transaction is in-line with the objectives of the Trust.
- 3.12 The Council are in receipt of approvals for the proposed new 22 year lease from the Coal Industry Social Welfare Organisation (CISWO).

#### **4. Proposal and Justification**

- 4.1 It is proposed that upon HCC's surrender of the two current leases the Council will grant a new 22 year lease of the whole property at a nominal rent. Under the terms of the lease HCC will be responsible for repairing, maintaining and insuring and paying all outgoings and utility charges for the property.
- 4.2 The lease will be granted between Higham Cricket Club as a registered Community Amateur Sports Club (CASC) and the Council in its capacity as trustee of the charity.
- 4.3 Granting the lease will relinquish the Council of any repairing and insuring liabilities for 22 years representing significant financial savings.
- 4.4 Granting the lease will be beneficial in aiding HCC's future applications for grant funding to further improve and develop the club and ground. This will benefit the wider local community as well as those immediately associated with the sports club as the facilities will also be available for some community use.

- 4.5 HCC already enjoys rights to a new lease under the 1954 Landlord and Tenant Act upon expiry of their existing lease(s).

## **5. Consideration of Alternative Approaches**

- 5.1 If the proposal is not approved part of the grant funding awarded to HCC will be withheld due to the condition of having a substantial lease in place not having been met. This could cause HCC financial difficulties.
- 5.2 Transferring the freehold of the land is not an option due to the Council's Trust obligations.

## **6. Impact on Local People**

- 6.1 The continuing development and improvement of the cricket ground and facilities will benefit not only its club members but the local community and the Borough as a whole.
- 6.2 Existing buildings on the site are in poor condition. The provision of a new pavilion and the repairs proposed to the old changing room building will improve the visual amenity of the recreation ground as a whole, part of which is utilised by locals.

## **7. Financial Implications**

- 7.1 There are no direct financial implications associated with this proposal as the transaction is being dealt by the Council as Trustee as opposed to the Local Authority.
- 7.2 The grant of a 22 year lease of Higham Common Cricket Ground to Higham Cricket Club will ensure that the building is maintained and continues to be used by the community in line with the Council's Community Asset Transfer Policy ref Cab.30.1.2013/6.3.
- 7.3 The grant of a 22 year lease will allow Higham Cricket Club to secure grant funding to support refurbishment of the facilities that the Council as Trustees is unable to access. Should the lease not be granted, Higham Common Cricket Ground may have to be transferred back to the Council as Trustee who would be liable for all future security and maintenance costs.
- 7.4 The proposal to award the lease ensures the best use of the asset and will have significant benefits to the local community as outline within section 6 of this report.
- 7.5 Higham Cricket Club will pay the Councils as Trustee reasonable legal and surveyors fees in respect of the lease.
- 7.6 There are no undue VAT implications arising as a result of this report.
- 7.7 For the purpose of IFRS the lease will be classified as an operating lease.

## **8. Employee Implications**

- 8.1 There are no implications for BMBC employees as a result of this recommendation.

## **9. Communications Implications**

- 9.1 The grant of the new lease will be subject to complying with the Charities Act and where required the necessary public notices will be posted.

## **10. Consultations**

- 10.1 Local ward members have been consulted on the proposed lease and support the proposals as detailed within this report.
- 10.2 The Service Director Stronger, Safer and Healthier Communities (Parks Services) support the grant of a 22 year lease.
- 10.3 Financial Services Manager and the insurance and Taxation Manager on behalf of the Service Director of Finance (S151 Officer), has been consulted and details are shown in Item 7 of this report.
- 10.4 Legal Services have been consulted in the creation of this report in respect to the grant of a lease in relation to land and property subject to Trust. They also provided further comment as follows:

It is accepted that the surrender and grant of lease of the whole area will provide social/community benefit and therefore complies with the requirements of section 123 Local Government Act 1972, notwithstanding it is a transaction at undervalue.

It is a “disposal of public open space” as statutorily defined, and the Council will therefore need to advertise the disposal for two consecutive weeks in the Chronicle and invite objections which must be considered before a final decision is made to proceed.

## **11. The Corporate Plan And The Council's Performance Management Framework**

- 11.1 HCC’s ambition and commitment to improve its facilities for the benefit of its members and wider local community is demonstrated by the securing of funding and thereafter planning permission for its new pavilion. This is in alignment with the continuing development, consolidation and expansion of community resources as detailed in the Council’s corporate plan.
- 11.2 Sport and local community sports clubs can play a key role in building strong and resilient communities by bringing together the diverse range of people living in the community.

## **12. Promoting Equality and Diversity and Social Inclusion**

- 12.1 The long term continuation and development of HCC will retain the facility to be used by all age groups.

- 12.2 As part of the CASC social commitment the club must be open to people of all ethnicities, nationalities, sexual orientations, religions or beliefs, sexes, ages and ability - except when a certain level of physical ability is needed to take part in a sport. Discounted membership fees must be available for those who can't pay if the membership fee exceeds £10/week.

**13. Tackling The Impact Of Poverty**

- 13.1 There are no issues arising from this report.

**14. Tackling Health Inequalities**

- 14.1 There are no issues arising from this report.

**15. Reduction of Crime and Disorder**

- 15.1 In investigating the options set out in this report, the Council's duties under Section 17 of the Crime and Disorder Act 1998 have been considered.

**16. Risk Management Considerations**

- 16.1 The granting of a longer term lease to HCC will aid the long term continuation (and improvement through access to potential funding) of a local sports club that represents a responsible custodian of a local asset to the benefit of the community.
- 16.2 The lease will contain the standard provision for the Council to instigate forfeiture proceedings if the tenant does not comply with material covenants.

**17. Health, Safety And Emergency Resilience Issues**

- 17.1 The proposal to lease the property will be carried out giving full consideration to current Health and Safety Legislation.

**18. Compatibility with European Convention on Human Rights**

- 18.1 This report recognises the promotion and importance of equality, diversity and human rights for all members of the local community and the wider Borough.

**19. Conservation of Biodiversity**

- 19.1 There are no issues arising as a result of this report.

**20. Glossary**

- 20.1 IFRS – International Financial Reporting Standards  
HCC – Higham Cricket Club  
CASC – Community Amateur Sports Club  
CISWO – Coal Industry Social Welfare Organisation

**21. List of Appendices**

21.1 Appendix A – Site Plan

**22. Background Papers**

22.1 Correspondence regarding this matter is held on the files in Asset Management.

If you would like to inspect background papers for this report, please email [governance@barnsley.gov.uk](mailto:governance@barnsley.gov.uk) so that appropriate arrangements can be made

Financial Implications/Consultation

A handwritten signature in black ink, appearing to be 'S. Bully', is written over a horizontal dotted line.

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*(To be signed by senior Financial Services officer where no financial implications)*