

## BARNSELY METROPOLITAN BOROUGH COUNCIL

This 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 – Place

### **COMMUNITY ASSET TRANSFER - LEASE RENEWAL OF DODWORTH MINERS WELFARE RECREATION GROUND, DODWORTH**

#### **1. Purpose of report**

- 1.1 The purpose of this report is for the Council to consider, in its role as trustee and in accordance with the relevant charities legislation, granting a new 50-year lease of Dodworth Miners Welfare Recreation Ground. The new lease will be granted to Dodworth Miners Welfare Scheme (the Scheme), to allow them to attract the external investment necessary to fund various site improvement works. The recreation ground is shown edged black on the attached plan (Appendix A).

#### **2. Recommendations**

- 2.1 **That, subject to terms being agreed and statutory procedures under the Charities Act 2011 being complied with, the Council in its capacity as trustee of Dodworth Miners Welfare Recreation Ground approves the grant of a new 50-year lease to the Dodworth Miners Welfare Scheme.**
- 2.2 **That the Corporate Asset Manager be authorised to finalise Heads of Terms for the proposed 50-year lease grant and surrender of the existing lease.**
- 2.3 **That the Executive Director Core (Legal Services) be authorised to complete the lease to the Scheme.**

#### **3. Introduction**

- 3.1 The Council is trustee of the land known as Dodworth Miners Welfare Recreation Ground by way of a scheme dated 5<sup>th</sup> April 1940 and a conveyance dated 10<sup>th</sup> December 1945. The trust stipulates the Council are to hold the land in perpetuity to provide a "*...Public Park and Recreation Ground for the benefit of the inhabitants of Dodworth and the neighbourhood*".
- 3.2 The land is currently subject to an expired 60-year lease (dated 22<sup>nd</sup> November 1956) to Dodworth Miners Welfare Scheme (registered charity number 523584). Under the terms of the lease the Scheme are responsible for the effective management of the site as a "*public park and recreation ground*" and for meeting all the costs associated with their occupation, including all repairs, maintenance and outgoings.

- 3.3 The Scheme has successfully overseen the management of the site as a multi-use sports and social facility throughout the duration of their existing lease. The site includes a gym, a clubhouse, a five-a-side pitch, bowling greens and both adult and junior football / rugby pitches. These facilities are made available to the local community through several established sports teams including a boxing club, junior and senior football clubs, a bowling club and a rugby club. The Scheme also hosts a successful brass band.
- 3.4 The Scheme is a registered charity, led by a board of trustees and directed by a governing document dated 5<sup>th</sup> August 2005. Their primary income is derived from annual membership fees paid by users of the site. A private trading-arm, Dodworth Miners Welfare Sports Social Club Ltd (company number 11720570), are also based on site and manage the running of the clubhouse. The profits from which are re-invested into the Scheme.
- 3.5 In its business plan, the Scheme has identified several projects necessary to continue its current provision and improve the site over the coming years. The projects include, but are not limited to:
- The relocation and redesign of the changing and storage facilities
  - All weather pitch provision with floodlights
  - Pitch improvement works
  - Footpath improvement works

The current outline cost estimate for these works is approximately £600,000. The Scheme hopes to meet these costs through an application to Barnsley MBC for Section 106 monies and a grant from the Football Foundation. A prerequisite for the Football Foundation grant is a demonstrable long-term interest in the property. As such, the Scheme has submitted a business plan in support of a new 50-year lease on similar terms to the existing agreement.

- 3.6 The Council as trustee will consult with CISWO and the NUM prior to granting the lease and make approaches to the Charity Commission where appropriate to ensure compliance with the relevant charities legislation.
- 3.7 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.
- 3.8 Simultaneous to the lease renewal, it is proposed to appoint two representatives of Barnsley MBC to the Scheme’s board of Trustees. This is a stipulation of the Scheme’s governing document and should ensure a joined-up approach to the site’s future management, helping the Scheme continue to meet the objectives of the Council as trustee.

#### **4. Proposal and justification**

- 4.1 It is proposed that subject to procedures under the Charities Act being adhered to, the Council as trustee approve the granting of a new 50-year lease of land at Dodworth Miners Welfare Recreation Ground to the Scheme.
- 4.2 The proposed lease terms will ensure the tenant remains responsible for maintenance and repairs to the land and buildings, along with all outgoing costs and utilities. Relevant property legislation would allow the Council as trustee to terminate the lease and retake possession in the event of material and continued tenant breach.
- 4.3 The proposal is in-line with the Council's Community Asset Transfer Policy (Cab 30.1.2016.6.3). However, this consent is not applicable to this transaction given this is a decision taken by the Council as trustee, rather than local authority. Such an arrangement is permitted under charities legislation as a "charity-to-charity" transaction and will enable the Council's charitable ambitions to be fulfilled as the Scheme will continue to meet the objectives of the trust.
- 4.4 The grant of a new 50-year lease, together with completion of the proposed improvement works, will enable the Scheme to protect the use of the site for local sporting competition and recreation purposes for the foreseeable future. The availability of community fitness and leisure facilities is considered important in fostering social cohesion and improving the physical and mental well-being of local residents.
- 4.5 Community groups or charities with observable vested interests in property are more likely to receive funding from external parties for the purposes of development and refurbishment. The proposed lease would assist the Scheme in securing the necessary investment for the site improvement works and provide confidence in their long-term ability to sustain themselves financially.

#### **5. Consideration of alternative approaches**

- 5.1 If the lease is not renewed, the Scheme will not be able to secure the required funding to begin work on the improvement projects and would instead be relying on the current facilities to maintain its current service provision. The specification and condition of the pitches and buildings means this is not a viable or sustainable long-term solution. The Scheme would also suffer from any future funding application being hampered by the lack of a long-term interest in the property, potentially bringing its existence into question.

Should the Scheme disband, and an alternative tenant could not be found, the site would return to the Council as Trustee landlord. The Council may find the management of the facility too onerous and in such an event the site would be closed, and a valuable community resource would be lost.

5.2 Transferring the freehold of the land in question to the Scheme is not possible due to the Council's trust obligations.

## **6. Impact on local people**

6.1 The proposal would help ensure the existing involvement, inclusion and empowerment of a third-sector sporting organisation in the local community continues for the foreseeable future.

6.2 Once the proposed works have been completed, the Scheme will be able to provide the facilities appropriate to meet the specific local demand for sporting and social activity, an objective outlined in their business plan.

## **7. Financial implications**

7.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer)

7.2 The proposal to award the lease at a nominal rent ensures the best use of the asset and will have significant benefits to the local community as outlined within section 6 of this report.

7.3 There are no undue VAT implications arising for the Council as a result of the proposed lease to the Scheme.

7.4 For the purpose of IFRS the lease will be classified as a Finance lease.

7.5 As a result of the above there are no direct financial implications associated with this proposal.

## **8. Employee implications**

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

## **9. Communications implications**

9.1 The grant of the new lease will be subject to complying with the Charities Act 2011 and public open space legislation; where required the necessary public notices will be posted.

## **10. Consultations**

10.1 A list of stakeholders consulted during the preparation of this report includes:

- Core Services (Legal Services)
- Core Services (Financial Services)
- Environment and Transport (Sport and Active Recreation)

- 10.2 Local ward members have been consulted on the proposed recommendation and support the proposals as detailed within this report.

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

- 11.1 The Scheme's commitment to managing and maintaining the facilities for the benefit of the local community is demonstrated by their work in the last 60 years and their occupation of the property. The grant of a new lease will allow the Scheme's work to continue into the future, an outcome which is in-line with the continuing development, consolidation, and expansion of community resources detailed in the Council's Corporate Plan.

## **12. Promoting equality and diversity and social inclusion**

The Scheme's business plan stipulates that the on-site facilities are open to all members of the public, regardless of age, sex, disability, ethnicity, sexual orientation, religion or other beliefs. The lease renewal will allow the Scheme to continue to provide sports and recreation accessible to all.

## **13. Tackling the impact of poverty**

- 13.1 There are no issues arising from this report.

## **14. Tackling health inequalities**

- 14.1 The lease renewal will allow the Scheme's provision of regular exercise for local residents to continue and develop. Moreover, by reaffirming their long-term interest in the site, the Scheme have an opportunity to safeguard their future in this location, ensuring the provision of regular exercise is accessible to subsequent generations.

## **15. Reduction of crime and disorder**

- 15.1 Failure to renew the lease increases the risk of the property becoming vacant. Vacant or under-used land and buildings can attract vandalism and unauthorised uses such as fly-tipping, substance abuse, and other anti-social behaviour.
- 15.2 The availability of community and sporting facilities is considered important in reducing crime and disorder, especially amongst younger age groups.

## **16. Risk management issues**

- 16.1 The Scheme's historic successful management of the site, together with the submission of a robust business plan, indicates they are a responsible custodian for this community asset for the foreseeable future. That said, it is possible that during the proposed term the Scheme are forced to disband, either through financial hardships or the changing priorities of personnel. In this event, the Council would take possession of the site and complete any

necessary repairs at cost. It is likely, given the stipulations of the trust, the Property would be made available to another community organisation with similar objectives as the Scheme. If no such group came forward, the management of the site would be reviewed.

- 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. Additionally, the intention to include two BMBC representatives on the Scheme's trust board (paragraph 3.8) will help to ensure the management of the site continues to be in-line with both the stipulations of the trust and the Council's wider objectives.

## **17. Health, safety and emergency resilience issues**

- 17.1 There are no direct health and safety implications arising from this report. After the lease is granted the Scheme will remain responsible for ensuring on site compliance with all health and safety best practice and 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 direct issues arising as a result of this report. The impact on biodiversity of any of the proposed improvement works (paragraph 3.5) will be considered as part of the planning process if necessary.

## **16. Glossary**

BMBC – Barnsley Metropolitan Borough Council  
CISWO – Coal Industry Social Welfare Organisation  
NUM – National Union of Mineworkers

## **17. List of appendices**

Appendix A: Financial Implications

Appendix B: Site Plan

## **18. Background papers**

Correspondence regarding this matter is held on the files in Property – Estates – not available for inspection, contains exempt information.

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.

**Report author:** Tim Hartley (14<sup>th</sup> July 2020)