

<b>This report and Appendix 1 are Public. Appendix 2 is exempt from publication by virtue of paragraph 3 of Schedule 12A of Local Government Act 1972</b>	
<b>Whitelands Farm Sports Centre – Grant of Lease and Transfer of Commuted Funds</b>	
<b>Committee</b>	Executive
<b>Date of Committee</b>	8 April 2024
<b>Portfolio Holder presenting the report</b>	Portfolio Holder for Property, Councillor Eddie Reeves
<b>Date Portfolio Holder agreed report</b>	19 March 2024
<b>Report of</b>	Assistant Director Property, Mona Walsh

## **Purpose of report**

Proposal for the future operation and long-term management of Whitelands Farm Sports Centre and grant of a long leasehold interest of Whitelands Farm Sports Centre to Bicester Town Council.

## **1. Recommendations**

The Executive resolves:

- 1.1 To delegate authority to the Assistant Director Property to enter into a 90-year lease of Whitelands Farm Sports Centre at a peppercorn rent to Bicester Town Council subject to completion of the legal formalities and advertising requirements described below.
- 1.2 To approve the transfer of a commuted sum of £30,000 to Bicester Town Council upon completion of the lease.

## **2. Executive Summary**

- 2.1 Whitelands Farm Sports Centre was developed as part of the Kingsmere development in southwest Bicester. The facility, comprising 31.46 acres (12.73 hectares) of land, provides a range of sports facilities for the area, including a section of “open space” land (Appendix 1 – Site Plan).
- 2.2 The grant of the proposed lease of the sports centre will be a “disposal” for the purposes of Section 123 of the Local Government Act 1972. Before granting the proposed lease, the Council will need to ensure the transaction complies with either the best consideration duty under Section 123 or the terms of the ‘Local Government Act 1972: General Disposal Consent 2003’, as well as the further legal requirements relating to a disposal of open space land detailed in this report.

- 2.2 The freehold interest and a commuted sum was transferred to Cherwell District Council under a Section 106 Agreement.
- 2.3 The complex was originally operated under a contract between the Council and Parkwood Leisure, with support of £56,000 pa paid by Bicester Town Council (BTC). The contract was terminated in 2022 because of BTC's desire to operate the facility themselves. The Council agreed to grant an initial 12-month lease to BTC to manage and operate the facility, whilst a longer-term lease was agreed and granted. BTC are now holding over on the expired 12-month lease and continue to operate and manage the facility.
- 2.4 Terms have been agreed for the grant of a 90-year lease of the sports facility, at a peppercorn rent to BTC, who will have full responsibility for the maintenance, operation and the management of the facility.

## Implications & Impact Assessments

Implications	Commentary
<b>Finance</b>	<p>Containing the long-term liabilities on CDC is a positive step in establishing a greater degree of certainty over the council's ability to meet its financial commitment in the longer term; this proposal will help to mitigate costs coming back to the Council in the longer-term. Securing this through a lease arrangement also protects the land from disposal.</p> <p>Before any lease agreement is put in place, the VAT implications of the lease should be considered to ensure that the Council is not adversely affected.</p> <p>Joanne Kaye, Head of Finance (Deputy Section 151 Officer)</p>
<b>Legal</b>	<p>As noted in this report, the sports pitches at the centre are open space land. Before a final decision is taken on whether to proceed with the proposed lease, the Council will need to comply with the advertising requirements set out in Section 123(2A) of the Local Government Act 1972. Section 123(2A) requires that an intended disposal of open space land is advertised in a local newspaper for the area in which the land is situated for a period of two consecutive weeks and that the local authority considers any objections received in response.</p> <p>A lease granted on the terms set out in this report will be a disposal of land for less than the best consideration that can be reasonably obtained; the Council is therefore proposing to rely on the Local Government Act 1972: General Disposal Consent 2003. For the lease to be within the scope of the general consent, the Council will need to determine that the undervalue is less than £2,000,000, and, additionally, that the disposal will help the Council to secure the promotion or improvement of the economic, social or environmental well-being of its area.</p> <p>It is anticipated that some clarification of the proposed lease terms will be necessary e.g. whether any 90-year lease should include a rolling break clause exercisable by the Council in certain circumstances,</p>

	whether the Council will have any residual repairing and maintenance obligations as landlord, and any legal commitments that will be needed from BTC as to the operation and management of the sports centre. Adrian Thompson, Principal Solicitor – Property			
<b>Risk Management</b>	There are no risks arising from this report. Any arising risks will be managed by the relevant service operational risk register and escalated to the leadership risk register as and when necessary. Celia Prado-Teeling, Performance Team Leader			
<b>Impact Assessments</b>	Positive	Neutral	Negative	Commentary
<b>Equality Impact</b>		x		There are no equalities implications arising directly from this report. Celia Prado-Teeling, Performance Team Leader
<b>A</b> Are there any aspects of the proposed decision, including how it is delivered or accessed, that could impact on inequality?				
<b>B</b> Will the proposed decision have an impact upon the lives of people with protected characteristics, including employees and service users?				
<b>Climate &amp; Environmental Impact</b>				No applicable
<b>ICT &amp; Digital Impact</b>				Not applicable
<b>Data Impact</b>				Not applicable
<b>Procurement &amp; subsidy</b>				Not applicable
<b>Council Priorities</b>	Healthy resilient and engaged communities. Ensuring sports provision and other related facilities are available for local residents.			
<b>Human Resources</b>	Not applicable			
<b>Property</b>	Leasing the property to BTC will remove any ongoing future maintenance and repair liability for the Council and reduce officer and other resource required to manage the property, whilst ensuring the			

	<p>facilities are available for use by local residents. The grant of a lease ensures the Council retains the freehold interest with the lease placing obligations on BTC as tenant to continue to manage the site and ensure sports provision is maintained.</p> <p>Mona Walsh, Assistant Director Property 12 March 2024</p>
<b>Consultation &amp; Engagement</b>	<p><b>Bicester Town Council</b></p> <p>The Town Council have confirmed that they would be willing, in principle, to take a long- term lease for Whitelands Sportsground with payment of the remaining commuted sums available, with the ambition to operate the site in the long term.</p>

## Supporting Information

### 3. Background

- 3.1 Whitelands Farm Sports Centre was developed as part of the Kingsmere development in southwest Bicester. The facility, comprising 31.46 acres (12.73 hectares) of land, provides a range of sports facilities for the area, including a section of “open space” land (Appendix 1 Site Plan).
- 3.2 The property provides a state-of-the-art 3G football pitch, other grass pitches for football and rugby, a cricket wicket, a perimeter track suitable for running, cycling and wheelchair use as well as open space and parking. The sports pavilion has ample changing facilities, a spacious function room, cafe and licensed bar.
- 3.3 The grant of the proposed lease of the sports centre will be a disposal for the purposes of Section 123 of the Local Government Act 1972. Before granting the proposed lease, the Council will need to ensure that the transaction complies with either the best consideration duty under Section 123 or the terms of the ‘Local Government Act 1972: General Disposal Consent 2003’, as well as the further legal requirements relating to a disposal of open space land detailed in this report.
- 3.4 Section 123(2A) and (2B) of the Local Government Act 1972 outlines the disposal procedure requirements for open space land that is held by local authorities. Section 123(2A) requires that before disposing of open space land a local authority must advertise its intention to dispose of that land in the local newspaper for two consecutive weeks. Any objections to the proposed disposal must be considered by the authority before proceeding.
- 3.5 It is proposed that the above procedure will be undertaken once ‘in principle’ approval has been obtained to proceed with the lease.
- 3.6 The freehold interest and a commuted sum was transferred to the Council under a Section 106 Agreement.

- 3.7 The facility was initially operated under a 5-year contract by Parkwood Leisure until 2022, with Parkwood receiving support of £56,000 pa paid by BTC to operate the facility.
- 3.8 During 2021/22 Bicester Town Council (BTC) confirmed their preference was to operate and manage the site themselves, with the Council granting them a long leasehold interest of the property and transfer of remaining commuted sums.

#### **4. Details**

- 4.1 The Section 106 Agreement provided for the transfer of the freehold interest and payment of a commuted sum of £223,673 to the Council. The purpose of the commuted sum is to fund the ongoing repair and maintenance of the facility, including grounds maintenance and contribution to facility enhancements. A substantial part of these monies has since been spent on improvements to the facility. Some of this expenditure has been offset by a contribution of £50,000 from UK Prosperity Fund. The balance remaining is £83,300, with other works to be undertaken this year.
- 4.2 Works undertaken to date include improved drainage and grass resilience. Upgraded flood lighting is due to be installed during April /May 2024, with those costs being met from the commuted sum, as cited above. There remains a zebra crossing and some landlord maintenance liability for the newer installations to be completed by the Council with those costs being met from the commuted sum, cited above. It is intended to transfer £30,000 commuted funds to BTC upon the grant of the lease.
- 4.3 BTC had been paying the Council a sum of £56,000pa towards the operation of the centre, with the Council transferring this to Parkwood Leisure who operated the site under a contract. Parkwood's contract came up for notice of extension in March 2022 for a further 5-year period. Parkwood indicated they would consider continuing to operate the site at a lower annual cost than the original sum of £56,000 pa.
- 4.4 BTC's preference is to operate the site directly, via a community model. In early 2021 they approached the Council to discuss leasing and operating the site themselves. BTC would have full operational responsibility for the site, with the remaining balance of commuted sums transferred to them. This would remove the need any further payments or contributions from the Council and thus release this Council from any further ongoing financial liability for the site.
- 4.5 BTC Resources Committee meeting in November 2021 approved in principle leasing the site from the Council at a peppercorn rent, and with an aspiration for the Council to consider the possibility of the future transfer of the freehold interest to BTC.
- 4.6 Following the November 2021 meeting it was agreed by the Council that a year-by-year tenancy would be granted to enable BTC to operate the facility whilst a longer-term lease was agreed and granted. This initial annual lease has since lapsed and BTC is currently holding over and continuing to manage and operate the facility.

- 4.7 Section 123 of the Local Government Act 1972 prohibits the disposal of local authority land for less than best consideration without the consent of the Secretary of State. The purpose of Section 123 is to ensure, so far as reasonably possible, that public assets are not sold by public authorities at an undervalue, save, if at all, with the consent, general or specific, of the Secretary of State. Under the terms of the Local Government Act 1972: General Disposal Consent 2003 (circular 06/2003), local authorities are permitted to make a disposal of land for less than best consideration where the undervalue is less than £2,000,000 and the local authority determines that the disposal will help it secure the promotion or improvement of the economic, social or environmental well-being of its area.
- 4.8 The Council instructed external surveyors, Montagu Evans, in October 2022 to carry out a valuation to determine if the grant of a 90-year lease at a peppercorn rent on the terms proposed would be within the financial limits of the General Disposal Consent and therefore comply with Section 123 of the Local Government Act 1972.
- 4.9 The valuation details are set out in exempt Appendix 2:
- 4.10 As the valuation advice is that the undervalue is within the £2,000,000 limit, it is anticipated that the Council would be able to proceed with the proposed lease under the terms of General Disposal Consent and that the lease would not require specific consent from the Secretary of State.
- 4.11 Montagu Evans reviewed their valuation during March 2024 and at a meeting, on 6 March 2024, confirmed that the valuation had not changed in any material way.
- 4.12 Lease negotiations between the Council and BTC were overtaken by the need to accommodate Bicester Rugby Union Football Club at Whitelands Farm Sports Centre. This was due to the closure of the Oxford Road site and the unsuitable nature of the newly created Bicester Sports Association ground at Chesterton. A deal to accommodate all their training and matches at Whitelands was agreed. Parkwood, operating the facility at that time and BTC as the principal funder of the site, were involved and supportive throughout. Bicester Rugby Club, an important local club with significant local history and interest, continues to thrive.

## **5. Alternative Options and Reasons for Rejection**

- 5.1 The following alternative options have been identified and rejected for the reasons as set out below.

### Option 1: To revert to an operator model.

This option has been rejected as it fails to provide BTC with control over how their resources are deployed in the delivery of the service at the site. Furthermore, this option does not provide the Council with any certainty over the longer-term viability, management and maintenance of the facility.

### Option 2: Work with a local sports club to operate and maintain the facility.

This option has been rejected as it would negatively impact on those teams from other sports who currently use the site and would probably take the site out of public ownership contravening the Section 106 agreement.

## 6 Conclusion and Reasons for Recommendations

- 6.1 Bicester Town Council (BTC) currently lease other property from the Council used for sports and pitch provision. The addition of Whitelands Farm Sports Centre to their portfolio would enable them to offer a wider and more holistic sports provision to local teams and residents.
- 6.2 The Council acquires land from developers, usually through Section 106 agreements, to ensure there is an adequate supply of sports pitch provision available for the growing population of Cherwell. These acquisitions place long-term financial burdens on the Council to maintain and operate the sites, long after the commuted sum is spent. The grant of a long lease to BTC who will have full operational and management responsibility removes the ongoing financial burden to the Council.
- 6.3 Members have agreed to review policies associated with acquiring sports pitches and their onward ownership and maintenance. Consultation with Town and Parish Councils, where development is likely will determine the willingness of third tier authorities to take on responsibility for community amenities, as negotiations continue with developers. Towns and larger villages are showing some appetite for an approach which ensures operation is at the closest level to residents. Grant of a long lease to BTC aligns with this approach.
- 6.4 A yearly tenancy was granted to BTC in March 2022 to operate the facility while terms for a longer lease were agreed. BTC have broadened sports and social provision during this time for the benefit of local residents.

## Decision Information

<b>Key Decision</b>	Yes. A decision that will result in the Council incurring potential revenue expenditure or savings above £50,000
<b>Subject to Call in</b>	No
<b>If not, why not subject to call in</b>	N/A
<b>Ward(s) Affected</b>	Bicester South

## Document Information

<b>Appendices</b>	
<b>Appendix 1</b>	Plan of Whitelands Farm Sportsground
<b>Appendix 2</b>	Montagu Evans Valuation EXEMPT
<b>Background Papers</b>	None

<b>Reference Papers</b>	None
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