

DECISION-MAKER:	CABINET
SUBJECT:	MANSEL PARK – DISPOSAL OF OPEN SPACE ADVERTISEMENT
DATE OF DECISION:	20 DECEMBER 2022
REPORT OF:	COUNCILLOR BOGLE CABINET MEMBER FOR ECONOMIC DEVELOPMENT

<u>CONTACT DETAILS</u>			
Executive Director	Title	Interim Executive Director of Growth	
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STATEMENT OF CONFIDENTIALITY		
NOT APPLICABLE		
BRIEF SUMMARY		
To consider the disposal of open space to permit a change in the size of the lease demise at Mansel Park for Millbrook Football Club in order to erect a hard standing area and fencing around the football pitch.		
RECOMMENDATIONS:		
	(i)	To agree the principle of the disposal of land at Mansel Park as identified on the plan at appendix 1 and authorise the Director, Legal & Business Services to advertise the disposal of the open space in accordance with section 123(2A) Local Government Act 1972.
	(ii)	To delegate authority to the Executive Director of Place, following consultation with the Cabinet Member for Economic Development, to consider and determine any objections made in response to the advert for the above open space disposal.
	(iii)	Subject to the responses to the advertisement above, to delegate authority to the Executive Director of Place following consultation with the Director for Legal & Business Services, agreement of new lease terms to the existing tenant of the land and authority to do anything necessary to give effect to the recommendations above.
	(iv)	Subject to recommendation (ii) above, to authorise the Executive Director of Place to dispose of the Land at Mansel Park in accordance with section 123(2A) Local Government Act 1972 and at less than best consideration if appropriate.

REASONS FOR REPORT RECOMMENDATIONS	
1.	The Council is required by law, under section 123(2A) Local Government Act 1972, to advertise a loss of open space and consider any objections before making any decision on disposal.
3.	It is a requirement from the Football Association for the Millbrook Football Club to improve its ground and facilities to become graded as a step 6 ground to move up the leagues and progress as a football club. The requirements for a Step 6 ground include but are not limited to a fully enclosed playing area, safe standing and seating for spectators. These enhancements will result in an improvement to the sporting facilities for the local community.
ALTERNATIVE OPTIONS CONSIDERED AND REJECTED	
4.	Refuse to grant a new lease to the tenant with an alteration to the demise. The tenant would therefore be unable to implement the planning decision approved as the application is for an area outside of their demise which they hold no rights over. The tenant could re-submit a planning application for improvements within their demise and apply for landlord consent not to be unreasonably withheld. However, it is understood that the requirements of a Step 6 ground cannot be accommodated within their site areas. Alternatively, the tenant could review other locations around the city. Currently the club in partnership with other clubs and currently have short term arrangements with another landlord and could seek to pursue a longer-term agreement although it is understood the landlord is not agreeable hence the need to develop Mansel Park.
DETAIL (Including consultation carried out)	
5.	The Council own the freehold site at Mansel Park. A football pitch is let on an occupational lease for 10 years from 14th February 2014 expiring 13th February 2024.
6.	Millbrook Football Club has 26 senior teams, 7 senior teams (one of which is a women's team) and 19 youth teams 6 years or older. The club has provided information stating there are 468 registered players. Millbrook Football Club has advised that they offer a number of schemes to encourage participation from all age groups within the community. They have stated that they meet regularly with club members to discuss matters such as child welfare, mental health, healthy eating and physical fitness. The club also host 'Open Sessions' where non-club members can join in.
7.	The tenant obtained planning consent in July 2021 (20/00024/FUL) to significantly alter the site by way of the erection of a screen fence and a hard standing area with seated stands. The planning application received a mixed response with strong opposing views. Southampton Commons and Parks and Protection Society (SCAPPS) was opposed to the design and concerns were raised over parking in surrounding residential streets from increased footfall to matches.
8.	The reason the tenant is seeking to alter its demise is not only to improve the current facilities but is a requirement from the Football Association they must comply with to be able to move up the leagues and progress as a football club. Millbrook Football Club currently play in the Wessex League One . Should they be unable to meet a set criterion to be a grade step 6 ground

	they will be unable to compete in a higher ranked league. Full criteria outlined in Members Room Document 1.
9.	Under the terms of the lease, the tenant is required to obtain landlord consent prior to making any alterations. The tenant applied for planning permission before consulting the estates department of the Council with regards to their lease. The plans are for a larger area than the tenants leased demise making an alteration under the existing lease not possible. The lease would therefore need to be surrendered and re-granted to reflect a new and larger demise to implement the planning decision.
10	Consultation has been undertaken with the Service Manager for Commercial and Service Development and Ward Councillors. Generally, views have been supportive of the proposals. Benefits of the club to the local community have included hosting charity events raising money for local causes.
RESOURCE IMPLICATIONS	
<u>Capital/Revenue</u>	
11.	There are no capital implications for the Council as should the works go ahead they will be funded by the tenant.
12.	Rental terms to be agreed for a new lease subject to contract.
13.	The costs associated with the requirement for the council to obtain a s.123 valuation of market rent to assess best consideration will need to be met by the leaseholder.
<u>Property/Other</u>	
14.	The Council own the freehold site at Mansel Park. A football pitch is let on a full repairing and insuring lease for 10 years from 14th February 2014 expiring 13th February 2024.
15.	The Council has the necessary statutory powers under section 123 Local Government Act 1972 to dispose of properties in any manner it wishes. The only constraint is that a disposal must be for the best consideration reasonably obtainable (excluding short tenancies). However, it is recognised that there may be circumstances where a council considers it appropriate to dispose of land at an undervalue. The Local Government Act 1972 General Disposal Consent 2003 permits disposal at less than best consideration where the Council considers it will help it to secure the promotion or improvement of the economic, social or environmental well-being of its area and the undervalue does not exceed two million pounds.
16.	The passing rent is currently considered less than best value. It is anticipated the market rental value would be more than the passing rent and the club has advised that this is not a level that they could fund. The tenant has proposed a new 15-year lease requiring an independent valuation to assess the undervalue of the rent. Consideration would need to be taken to ensure the Council complies with section 123 Local Government Act 1972 for disposals that are less than best consideration. Disposal at less than best consideration is where the market value of the property having regard to the proposed transaction is less than the best price reasonably obtainable for the property and values should be assessed in capital not rental terms. There would also be a small reduction in the open space available to members of the public. This is considered to be de minimus given the overall size of the park.

LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
17.	Section 123(2a) Local Government Act 1972 states that a Council may not dispose of any land consisting or forming part of an open space unless before disposing the land in question it is advertised for two consecutive weeks in a local newspaper and consider any objections to the proposed disposal which may be made to them.
<u>Other Legal Implications:</u>	
18.	Section 149 of the Equality Act 2010 obliges public authorities, such as the Council, to take equalities considerations into account when exercising any functions or taking decisions. An Equality and Safety Impact Assessment has been prepared and attached containing analysis of how this decision will impact on equalities and sections of the public with relevant protected characteristics.
RISK MANAGEMENT IMPLICATIONS	
19.	The tenant would maintain liability for any structure or addition in a new lease, however, should the premises be returned to the Council, this would impose additional management responsibilities in terms of maintaining and keeping in full repair as well as security of the site. The lease will include a requirement to re-instate the premises to their former condition. There is a risk the tenant does not comply with the lease covenants; however, this can be mitigated by pursuing dilapidations.
POLICY FRAMEWORK IMPLICATIONS	
20.	The Health and Wellbeing Strategy 2017-2025 encourages residents to engage in physical activity stating 'At a time of increasing demand on services and pressures on funding, it is even more important to make sure the city is a healthy place by supporting people to take responsibility for their health, and that services are delivered as efficiently as possible, targeting them towards those people who need the most help'. https://www.southampton.gov.uk/media/g5ipm3yf/health-and-wellbeing-strategy_tcm63-391952.pdf

KEY DECISION?	No
WARDS/COMMUNITIES AFFECTED:	REDBRIDGE
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	Plan V3342
Documents In Members' Rooms	
1.	The Football Association requirements
2.	Equality and Safety Impact Assessment
Equality Impact Assessment	

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.		Yes
Data Protection Impact Assessment		
Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.		No
Other Background Documents		
Other Background documents available for inspection at:		
Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)	
1.	None	