



## Cabinet

<b>Title</b>	<b>Oak Hill Bowls Club – Lease Renewal</b>
<b>Date of meeting</b>	16 <sup>th</sup> January 2024
<b>Report of</b>	Councillor Barry Rawlings – Leader of the Council and Cabinet Member for Resources & Effective Council
<b>Wards</b>	Brunswick Park
<b>Status</b>	Public with accompanying exempt appendix - Exempt from publication in accordance with paragraph 5 of Schedule 12A of the Local Government Act 1972 on account that it contains . Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings
<b>Key</b>	Key
<b>Urgent</b>	No
<b>Appendices</b>	Appendix A – proposed Heads of terms for a new lease of the Oak Hill Bowls Club (Exempt)
<b>Lead Officer</b>	Sal Waheed - Head of Property and Portfolio Management Sal.Waheed@Barnet.gov.uk
<b>Officer Contact Details</b>	Robert Braham – Head of Property Services and Valuations <a href="mailto:robert.braham@barnet.gov.uk">robert.braham@barnet.gov.uk</a>

### Summary

In 2017, the Environment and Climate Change Committee resolved to divest the Council from the responsibility of maintaining the grounds and buildings of bowls clubs in the Borough in the context that bowls clubs served an important social function in the borough as well as contributing to the delivery of the health improvement agenda, both physically and psychologically.

As a result, new leases were granted to a number of bowls clubs at nominal annual rents. Although the Oak Hill Bowls Club was referred to in the report, which was approved by the Committee, the wording of the report and the minutes were ambiguous in respect of the annual rent for the Oak Hill Bowls Club. This paper seeks to remedy that situation in order that a new lease can be granted to the bowls Club on terms understood to have been agreed in 2017.

## Recommendations

1. That a lease be granted to the Oak Hill Bowls Club for a term of 25 years at a peppercorn rent, subject to the Club taking full responsibility for all maintenance and repair of the club house, pavilion, and bowls greens, together with all and any ancillary land and buildings on the site.
2. That Cabinet approves granting of the aforementioned lease as being the intention of the Environment and Climate Change Committee when it met in January 2017.
3. That Cabinet delegate authority to the Chief Officer, Head of Property and Portfolio Management, to (1) advertise the proposed lease if required under section 123 Local Government Act 1972 and take into account any responses received and (2) finalise the lease terms and instruct the Council's legal advisors, having taken advice, to prepare the necessary documentation to put the proposed lease into effect.

### 1. Reasons for the Recommendations

- 1.1 At the time this matter was considered by the Environment and Climate Change Committee in 2017, the net cost of maintaining bowls clubs across the Borough stood at some £110,000 annually. This deficit was despite annual rentals being collected due to the low rental value of bowls clubs.
- 1.2 Over time, the club houses, and pavilions across the portfolio of bowls clubs had deteriorated and the cost of renovation would have been prohibitive for the Council.
- 1.3 Negotiations had taken place with each bowls club and terms had been agreed, in principle and subject to contract, to grant long leases (25 years) at negligible or peppercorn rates in return for the clubs taking responsibility for all maintenance and repair.
- 1.4 These arrangements would, however, put the Council in a position of agreeing terms that were 'Less Than Best Value' when looked at without the context of the neglected condition of the bowls club portfolio. That would be in contravention of s123 of the Local Government Act 1972 unless the letting were in accordance with the consent of the Secretary of State. Under the Council's constitution (then), a Committee approval was required in order that the Council could agree to enter into the proposed terms, including rent less than best consideration, in light of the physical condition of the buildings in the portfolio at that time.
- 1.5 The minutes of the Committee meeting, held on 11<sup>th</sup> January 2017, are ambiguous when referring to the Oak Hill Bowls Club and the Council's legal advisors have determined that, accordingly, Committee approval, and therefore authority, to let at less than best consideration had not been granted.
- 1.6 This paper seeks Cabinet's approval to delegate authority to the Chief Officer, Head of Property and Portfolio Management, to grant a lease on the proposed terms to the Oak Hill Bowls Club, accepting that the terms are less than best value but that they are justified due to the physical condition of the buildings on the site and the annual cost of maintaining them that would otherwise fall to the Council.

### 2. Alternative Options Considered and Not Recommended

- 2.1 **Do Nothing** – The Council would be legally bound to offer a new lease on similar terms to the previous lease. This would result in the Council facing a significant annual cost to maintain and repair the club house and pavilion, along with the bowls green, a cost which an annual rental would not cover.

### **3. Post Decision Implementation**

- 3.1 The Council's legal advisors will be instructed to prepare documentation to enable a new lease to be granted to the Oak Hill Bowls Club on substantially the terms set out in Appendix C to this report with such variations as the said Chief Officer may consider appropriate, and to advise whether there is any issue related to subsidy control.

### **4. Corporate Priorities, Performance and Other Considerations**

#### **Corporate Plan**

##### **Being an Engaged and Effective Council**

- 4.1 This decision will continue the Council's support of bowls clubs within the Borough and reinforcing their commitment to the social, physical, and psychological benefit they bring the community in line with the Council Corporate Plan priorities, Barnet 2023-2026.

##### **Corporate Performance / Outcome Measures**

- 4.2 An annual saving against maintenance and repair costs will be assured.

##### **Sustainability**

- 4.3 Not applicable

##### **Corporate Parenting**

- 4.4 Not applicable

##### **Risk Management**

- 4.5 It is considered that there are no significant risks associated with following the recommended strategy.

#### **Insight**

- 4.6 The council has previously granted similar leases to bowls clubs within the Borough in accordance with the decision taken by the Environment and Climate Change Committee in January 2017.

#### **Social Value**

- 4.7 This decision will be consistent in contributing to the delivery of the health improvement agenda, both physically and psychologically.

### **5. Resource Implications (Finance and Value for Money, Procurement, Staffing, IT and Property)**

- 5.1 This decision will contribute to the annual savings created by the Environment and Climate Change Committee's decision taken in January 2017.
- 5.2 Subsidy control rules, referred to in section 6.3 of this paper, require that any effective subsidy should not exceed £315,000 in any three-year period. If this particular bowls club was taken in isolation, applying the CPI to the rent at the date it was last set under the existing lease, the current rental value would be £10,665 per annum, which would be less than the cost of maintaining the bowling greens at this site.

### **6. Legal Implications and Constitution References**

- 6.1 The Council may dispose of its property under Section 123 of the Local Government Act 1972. Except with the consent of the Secretary of State and for certain short leases, this shall not be otherwise than for the best consideration reasonably obtainable. A General Consent issued by

the Secretary of State in 2003 gives consent to disposal for less than best consideration where the value foregone is less than £2 million and the disposition will be for the economic, environmental, or social wellbeing of residents of the borough. It is considered by the Council that the proposed lease falls within the General Consent.

6.2 Under Section 123 of the Local Government Act 1972 the Council is required to advertise the letting of public open space for two consecutive weeks in a local newspaper and to take account of any comments received in response before proceeding.

6.3 A lease for less than best consideration may contravene subsidy control rules in some cases. The Council must scrutinise whether that would be the case here before entering into the lease or further addressing any requirements.

The purpose of the legal framework around subsidy control is to:

- ensure that public funds do not go into private pockets.
- ensure that private businesses and individuals are not subsidised from public funds or that they do not gain undue advantage.
- ensure that a transaction between a public authority and a private business does not violate competition.

The proposed lease arrangement is likely to be minimum financial assistance, a permitted exception to the controls on subsidy control, or alternatively outside the subsidy rules.

6.4 Under Part 41B of the Council's constitution, disposals for less than best consideration are to be approved by Cabinet.

6.5 Under the Council's Constitution, Part 2D, the terms of reference of Cabinet includes responsibility for the following functions including, all key decisions, and Development of proposals for the budget (including the capital and revenue budgets, the fixing of the Council Tax Base, and the level of Council Tax) and the financial strategy for the Council; 3.2 Monitoring the implementation of the budget and financial strategy; 3.3 Recommending major new policies (and amendments to existing policies) to the Council for approval as part of the Council's Policy Framework and implementing those approved by Council; 3.4 Approving policies that are not part of the policy framework; 3.5 Management of the Council's Capital Programme.

## **7. Consultation**

7.1 None

## **8. Equalities and Diversity**

8.1 Under the Equality Act 2010, the Council must have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Act.
- b) advance equality of opportunity between those with a protected characteristic and those without.
- c) promote good relations between those with a protected characteristic and those without.

The 'protected characteristics' referred to are: age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation. It also covers marriage and civil partnership with regards to eliminating discrimination.

The proposed lease is not considered to have any adverse effects on those with protected characteristics.

## **9. Background Papers**

- 9.1 Environment Committee – 11 January 2017 – Item 10 – Community Management of Bowling Greens: <https://barnet.moderngov.co.uk/ieListDocuments.aspx?CId=695&MId=8592&Ver=4>
- 9.2 Environment Committee – 11 January 2017 – Item 10 – Community Management of Bowling Greens – Minutes:  
<https://barnet.moderngov.co.uk/documents/g8592/Printed%20minutes%2011th-Jan-2017%2019.00%20Environment%20and%20Climate%20Change%20Committee.pdf?T=1>