

CABINET SUB-COMMITTEE (COUNCIL CHARITIES) 24 MARCH 2015

*PART 1 – PUBLIC DOCUMENT	AGENDA ITEM No. 5
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TITLE OF REPORT: KING GEORGE V PLAYING FIELDS HITCHIN – CHARITABLE TRUST

REPORT OF THE STRATEGIC DIRECTOR OF THE HEAD OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT

1. SUMMARY

- 1.1 To report to the Cabinet Sub-Committee following on from the Cabinet Sub-Committee meeting that took place on the 27 January 2015 at which the Cabinet Sub-Committee authorised completion of the approved Lease and Management Agreement between the Trust and the renamed Hitchin Rugby Limited.
- 1.2 To update the Cabinet Sub-Committee on progress since the meeting on the 27 January 2015.

2. RECOMMENDATIONS

- 2.1 That the Sub-Committee approves the request from Hitchin Rugby Limited that the Trust and Hitchin Rugby Limited enter into a Deed of Surrender in respect of the lease dated 15 March 1994 made between the Trust (1) Hitchin Rugby Football Club(2)(“the Lease”).
- 2.2 That the Sub-Committee delegates to the Head of Finance, Performance and Asset Management, in consultation with the Chairman of the Sub-Committee, the authority to agree any necessary minor amendments to the draft Deed of Surrender.

3. REASONS FOR RECOMMENDATIONS

- 3.1 To ensure that the Trust is managed in accordance with its regulatory requirements.

4. ALTERNATIVE OPTIONS CONSIDERED

- 4.1 None.

5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS

- 5.1 None.

6. FORWARD PLAN

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

7. BACKGROUND

- 7.1 Members will recall at the last Sub-Committee meeting it was resolved that the approved Lease and Management Agreement between the Trust and Hitchin Rugby Limited be completed subject to the approval of Fields in Trust as soon as practical.
- 7.2 The Council's Property Solicitor arranged for the approved Lease and Management Agreement to be sealed and also obtained the necessary approval of Fields in Trust.
- 7.3 The Council's Property Solicitor repeatedly pressed Hitchin Rugby Limited to complete the Lease and Management Agreement with out success.

8. ISSUES

- 8.1 On the 18 February 2015, the solicitors for Hitchin Rugby Limited wrote to the Council's Property Solicitor requesting that, despite the previous agreement of the Lease being surrendered by operation of law, Hitchin Rugby Limited now required that the Lease be formally surrendered using a Deed of Surrender in order to assist in the registration of the approved lease at the Land Registry.
- 8.2 The Council's Property Solicitor informed the Rugby Club's solicitor that any deed would need to be approved by the Trust and that the next schedule meeting was some time off.
- 8.3 Hitchin Rugby Club Limited then requested that, in order to draw down the Sport England funding, the approved Lease and Management Agreement be completed. This was done on the 3 March 2015. Hitchin Rugby Club accepted that the requested Deed of Surrender could not be completed at the same time.
- 8.4 The Council's Property Solicitor has reviewed the draft Deed of Surrender of the Lease. The draft is acceptable and no liability will fall on the Trust. The Deed of Surrender formally "kills off" the Lease.
- 8.5 The approval of Fields in Trust to the Deed of Surrender will not be required.

9. LEGAL IMPLICATIONS

- 9.1 The Council remains the Trustee of the property and this Sub-Committee of the Cabinet is the managing committee appointed on behalf of the Council to manage this charitable trust among others.
- 9.2 Members of the Sub-Committee (Council Charities) are referred to as "Trustees" in this report and their powers to deal with all matters relating to the management of King George V Playing Fields Hitchin, as contained in the constitution include: To act on behalf of the Council as Corporate Trustee for all assets of the Council that are held on charitable trust, to consider all matters relating to trusts including the use, operation and management of all trust assets and the preservation of the objectives of those trusts so instituted and, to consider all proposals and representations from and on behalf of the

Council or any third party, in connection with the use, operation, management and ownership of trust assets. Negotiations on the terms and wording of the lease and management agreement in relation to the disposal of this land are therefore matters for the determination of the Trustees.

10. FINANCIAL IMPLICATIONS

10.1 The Council is subject to the following duties in relation to this proposed transfer:

- Fiduciary duty as Trustee of the King George V Playing Fields Trust
- Contractual duty as the nominee of Fields in Trust
- Statutory duty as Charity Trustee
- Statutory duties as a local authority landowner

11. RISK IMPLICATIONS

11.1 There is a risk that the proposed Deed of Surrender becomes ineffective if the correct procedures are not followed or any of the duties outlined above are breached.

12. EQUALITIES IMPLICATIONS

12.1 The Equality Act 2010 came into force on the 1st October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5th April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.

12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.3 There will be no loss of public amenity land occasioned by this transfer. Furthermore, the opportunities derived from the proposal will benefit the community by bringing modern changing facilities to users and enabling greater accessibility.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Public Services (Social Value) Act was passed at the end of February 2012; under the Act, public bodies in England and Wales are required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area. 'Social Value' involves looking at what the collective benefit to a community is when a public body awards a contract. It applies to all public services contracts and those public services contracts with only an element of goods or works. It does not apply to public work contracts or public supply (goods) contracts. The Act requires public authorities at the pre-procurement phase of procuring services to consider how what is being procured might improve the economic, social and environmental well-being of an area and how the authority might secure that improvement through the procurement process itself.

13.2 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraphs 11. The proposal also has obvious

benefits to the economic, social and environmental well being of the North Hertfordshire area and more specifically, Hitchin.

14. HUMAN RESOURCE IMPLICATIONS

14.1 There are no human resources implications from this report.

15. APPENDICES

15.1 Appendix A – Draft Deed of Surrender – Land and Buildings at King George V Playing Field, Old Hale Way, Hitchin, Herts.

16. CONTACT OFFICERS

16.1 Andrew Cavanagh, Head of Finance, Performance and Asset Management , 01462 474243, andrew.cavanagh@north-herts.gov.uk

16.2 Property Services, David Charlton, Senior Estates Surveyor, 01462 474320, david.charlton@north-herts.gov.uk

16.3 Legal Services, John Fairhall, Property Solicitor, 01462 474218, john.fairhall@north-herts.gov.uk

17. BACKGROUND PAPERS

17.1 None.