

# Cheltenham Borough Council

## Cabinet

### Outdoor Recreational Facilities in Pittville Park and Montpellier Gardens

<b>Accountable member</b>	<b>Cabinet Member for Finance</b>
<b>Accountable officer</b>	<b>David Roberts (Head of Asset &amp; Property Management)</b>
<b>Ward(s) affected</b>	<b>Pittville and Lansdown</b>
<b>Key/Significant Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>The recreational facilities in the parks referred to in this report have been let to the Cheltenham Coffee Co. Limited (CCC) since 1<sup>st</sup> March 2011 when it was awarded the contract to operate the facilities and granted leases of the premises, following a formal tender process. Previous to this the Council were operating the cafes. The original contract and leases were extended until 4<sup>th</sup> August 2015 to enable the council to consider the future of these facilities in view of the lease of the café in leisure@ expiring on the same date.</p> <p>It has been decided not to link the facilities in the park with the café at leisure@ and this report is seeking a request to grant new leases of the facilities until 8 February 2016 during which time the opportunity to run these facilities will be re-tendered. As the leases and contract expire at the height of Summer, the busiest time of year for the park cafes, it is hoped to achieve greater interest from prospective contractors at a more convenient time of year. Also, there will not be a break in service provision during the parks' busiest time period there be a change of operator.</p> <p>The land is identified as Open Space and has been advertised in accordance with S123(2A) Local Government Act 1972 (and it is confirmed that no objections to the disposal were received) to be completed when the objection period closes.</p>
<b>Recommendations</b>	<p><b>That Cabinet agrees:</b></p> <ol style="list-style-type: none"><li><b>1. To the Authority leasing the land and buildings edged in red on the plans that accompany this report to the Cheltenham Coffee Co. Limited from 5<sup>th</sup> August 2015 until 8<sup>th</sup> February 2016 and delegates authority to the Head of Asset and Property Management, in consultation with the Borough solicitor, to agree the terms of the lease.</b></li><li><b>2. To the Authority leasing the land and buildings edged red on the plans that accompany this report to a new contractor, chosen following a tendering procedure, on the terms as referenced in Appendix 3 and delegates authority to the Head of</b></li></ol>

**Asset and Property Management in consultation with the Borough solicitor to agree the terms of the leases.**

<p><b>Financial implications</b></p>	<p>The council receives an income from the current arrangement and the existing lease requires the tenant to cover all maintenance and repairs. This will continue whilst the tendering process is undertaken mitigating the financial risk to the council.</p> <p>The terms identified in Appendix 3 offer an increase in rental income to the council.</p> <p><b>Contact officer: Nina Philippidis, Business Partner Accountant nina.philippidis@cheltenham.gov.uk, 01242 264121</b></p>
<p><b>Legal implications</b></p>	<p>Section 123(2A) of the Local Government Act 1972 requires that before local authorities dispose of public open space to advertise its intention to do so by placing notice in the local paper for two consecutive weeks and consider any objections to the proposed disposals. The Notices were placed as set out in paragraph 1.4 and no objections were received.</p> <p>The Constitution requires that the decision to dispose of public open space (including leasehold disposals) is made by Cabinet.</p> <p>The current contract with the operator is to be renewed until 8<sup>th</sup> February 2016 and a new contract will be entered into for the supplier chosen following a tender process and the new contract will be entered into from 9<sup>th</sup> February 2016, Due to the value of the proposed contract the decision to renew the current contract rests with Mike Redman as the Director of Environmental and Regulatory Services. For the reasons set out in the report a waiver to the Council's contract procedure rules by the Director will be appropriate.</p> <p>Depending on the value of the contract being tendered, the decision to award the contract will rest with either Mike Redman or the Lead Member.</p> <p><b>Contact officer: Donna Ruck , donna.ruck @tewkesbury.gov.uk 01684-272017</b></p>
<p><b>HR implications (including learning and organisational development)</b></p>	<p>None</p> <p><b>Contact officer: Julie McCarthy Julie.mccarthy@cheltenham.gov.uk, 01242</b></p>
<p><b>Key risks</b></p>	<p><b>None, as there have not been any objections to the advertisement.</b></p>
<p><b>Corporate and community plan Implications</b></p>	<p>The current operator employs several part-time employees who risk unemployment if a new lease is not permitted. Responsibility for the buildings would pass fully to the Council should the operator cease trading.</p>
<p><b>Environmental and climate change implications</b></p>	<p>The Victorian properties are integral to the heritage of the parks. Should the current operator vacate, the empty properties could become prone to vandalism.</p>
<p><b>Property/Asset Implications</b></p>	<p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p>

## **1. Background**

- 1.1 In July 2010 the Council decided that the cafes and tennis courts in both Pittville Park and Montpellier Gardens and the boathouse in Pittville Park should be managed by an external operator and that the facilities should be disposed of by way of lease until 28<sup>th</sup> February 2014.
- 1.2 Following a tender process the Cheltenham Coffee Co. Limited was selected to run these facilities. Since taking over the contract CCC has successfully traded, increased the opening hours and developed the business into a destination of choice for many visitors to the parks. The leases and the contract were renewed following Cabinet approval on 11<sup>th</sup> February 2014 to continue until 4<sup>th</sup> August 2015, which is the date that the lease of the café at Leisure@ expires, so that the Council could consider options for the provision of these facilities. It has since been decided not to link the café at Leisure@ with the facilities in the parks.
- 1.3 The Council will need to carry out a procurement process to select an operator to manage these facilities following the expiry of CCC's contract.
- 1.4 As the current leases and the contract expire at the height of summer which is the busiest time of year for parks cafes, the Council wishes to continue with the current arrangement until 8<sup>th</sup> February 2016. It is hoped that there will be greater interest in the tendering process for a new operator in February, a quieter time of year. Also, if a new operator is chosen, there will no doubt be a period of time where the cafes need to close for a new operator to set up; the preference is not to disrupt service provision during the busiest time of the year.
- 1.5 The land upon which the buildings are sited is Open Space and the appropriate notice detailing the proposed leasehold disposals pursuant to S123(2A) of the Local Government Act 1972 was placed in the Gloucestershire Echo on 27<sup>th</sup> May 2015 and 3<sup>rd</sup> June 2015. The notices referred to the new leases to CCC from 5<sup>th</sup> August 2015 until 8<sup>th</sup> February 2016 as well as the leases proposed to be granted to operator selected to manage the facilities following the procurement process to be undertaken. The notices asked that if there were any objections to the proposed disposals to send them in writing to the Borough Solicitor by 9am on 18<sup>th</sup> June 2015 (no objections were received).
- 1.6 With regard to the leases to be granted alongside a new service contract from August 2016, leases for 7 years are proposed with a break clause at the end of year 5 which can be exercised by the Council subject to the performance of the tenant. This ties in with the proposed length of the new contract of 5 years plus a 2 year extension. The remainder of the proposed terms are set out in Appendix 3.
- 1.7 It is therefore recommended that a new lease is granted to the Cheltenham Coffee Co Limited for a term to expire on 8<sup>th</sup> February 2016.

## **2. Reasons for recommendations**

- 2.1 To allow the current operator to operate the recreational facilities until a less busy time in the year while the Council considers the tender options for the future provision of these facilities.

### **Alternative options considered**

- 2.2 Cabinet could decide not to agree to the leasehold disposals contained but this would result not only in the closure of the café operations on 4<sup>th</sup> August 2015 but would also require the Council to take back the maintenance, repairing and on-cost liability of the buildings which currently rest with the tenant.
- 2.3 Not renew the contract and leases with CCC and go out to tender, but this would risk the council not receiving interest in the opportunity due to this being the busiest time of year for these operators. Also service provision will be disrupted for users of these facilities if the operator changes during August. The council would also potentially lose revenue it receives from the

operators due to closure during this summer.

### **3. Consultation and feedback**

3.1 Not Applicable.

### **4. Performance management –monitoring and review**

4.1 The performance of the Contract will be managed by Adam Reynolds, Green Space Development Manager and the Asset & Property Management Department will ensure the Tenant complies with the terms and regulations of the Lease.

<b>Report author</b>	<b>Contact officer:     simon.hodges @cheltenham.gov.uk, 01242-775148</b>
<b>Appendices</b>	<ol style="list-style-type: none"><li>1. Risk Assessment</li><li>2. Location Plans</li><li>3. Approved Heads of Terms</li></ol>
<b>Background information</b>	<ol style="list-style-type: none"><li>1. Cabinet report 11<sup>th</sup> February 2014</li></ol>

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If cafes and recreational facilities close, then this will result in a loss to community facilities and exposes the council to empty premises and loss of revenue. This could also reflect badly on the Council.	Simon Hodges	21/05/15	2	2	4	Accept	Agree to proposals	21/05/15	Simon Hodges	
<p><b>Explanatory notes</b></p> <p><b>Impact</b> – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p><b>Likelihood</b> – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p><b>Control</b> - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											