

**Cheltenham Borough Council**  
**Cabinet-9 October 2018**  
**Cheltenham Spa Bowls Club**  
**Authority to Dispose of Public Open Space**

<b>Accountable member</b>	<b>Cabinet Member for Finance, Councillor Rowena Hay</b>
<b>Accountable officer</b>	<b>Dominic Stead (Head of Asset and Property Management)</b>
<b>Ward(s) affected</b>	<b>Lansdown</b>
<b>Key Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>St Georges Square Bowling Green is let to Cheltenham Spa Bowling Club. The lease expired on the 23<sup>rd</sup> June 2017. The lease is protected by the Landlord and Tenant Act 1954, and the tenant has shown an interest in renewing.</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</p>
<b>Recommendations</b>	<b>That Cabinet approves the Council leasing the land and buildings edged in red on the plans that accompany this report to the trustees of Cheltenham Spa Bowling Club for a period of 15 years at market rent and delegates authority to the Head of Property and Asset Management, in consultation with the Borough Solicitor, to agree the terms of the leases</b>
<b>Financial implications</b>	<p>The lease has been agreed at market rate (est. £3,650 per year) for the next 15 years and this is greater than we currently receive (£1,696 per year), therefore we will be charging estimated £1,954 a year more for this going forward. This is based on a fair market rent.</p> <p><b>Contact officer: Andrew Knott   <a href="mailto:andrew.knott@cheltenham.gov.uk">andrew.knott@cheltenham.gov.uk</a>  01242 264121</b></p>

<b>Legal implications</b>	<p>As the expired lease had the protection of Part II of the Landlord &amp; Tenant Act 1954, the tenant would have “held over” on the same terms as the expired lease and the Council has to follow the procedures set out in that Act if it wishes to terminate the existing basis of occupation and grant a new lease. Regaining vacant possession of the property can only be achieved if the Council can prove one of the grounds prescribed under the Act.</p> <p>The Council has to have regard to certain statutory obligations where it is disposing of land by way of a lease for more than 7 years:</p> <p>(a) the obligation under s123 Local Government Act 1972 to obtain best consideration reasonably obtainable.</p> <p>(b) where the disposal is of public open space (an expression which includes buildings located on open space), prior to disposal a notice of the intention must be placed in the local press for 2 consecutive weeks, and any objections considered.</p> <p>If the terms of the new lease cannot be agreed, the tenant has the right to apply to court for the new terms to be settled by way of court order.</p> <p><b>Contact officer</b></p> <p><b>Rose Gemmell</b>    <a href="mailto:rose.gemmell@tewkesbury.gov.uk">rose.gemmell@tewkesbury.gov.uk</a>    <b>01684 272014</b></p>
<b>Key risks</b>	None as there have not been any objections to the advertisement.
<b>Corporate and community plan Implications</b>	None
<b>Environmental and climate change implications</b>	
<b>Property/Asset Implications</b>	<p>As outlined in this report.</p> <p><b>Contact officer: Dominic.Stead@cheltenham.gov.uk</b></p>

<b>Report author</b>	<b>Contact officer: Rebecca.conway@cheltenham.gov.uk, 01242-264109</b>
<b>Appendices</b>	1. Risk Assessment 2. Proposed Lease Plan

## **1.0 Background**

- 1.1** Cheltenham Spa Bowls Club has been in place at St Georges Square since 1925. The clubs previous lease expired on the 23<sup>rd</sup> June 2017 and was for a term of 20 years, with a 6 months rolling break notice.
- 1.2** The Tenant wishes to renew their Landlord & Tenant Protected Lease and there are no reasons to oppose the renewal on statutory grounds.
- 1.3** Draft heads of terms have been agreed for a new lease for a new term of 15 years with a Landlord & Tenant rolling 6 months break notice.
- 1.4** The land is deemed Public Open Space and the appropriate Notices detailing the proposed leasehold disposal pursuant to S123(2A) of the Local Government Act 1972 was placed in the Gloucestershire Echo on the 11<sup>th</sup> January & 18<sup>th</sup> January. The Notices gave details of the proposed disposals and asked that if there were any objections to send them in writing to the Borough Solicitor by 9am on 1<sup>st</sup> February 2018. No objections were received.

## **2. Reasons for recommendations**

- 2.1** To allow the current tenants a new lease of the Bowls Club.

## **3. Alternative options considered**

- 3.1** Cabinet could decide not to agree to the leasehold disposals contained but this would result not only in closure of the bowls club but would also require the Council to take back the maintenance , repairing and on-cost liability of the building and land.

## **4. Consultation and feedback**

- 4.1** Ward members have been consulted about this proposal and no adverse comments received
- 4.2** As the property is public open space the Council have advertised the disposal in the local newspaper for 2 consecutive weeks. There were no objections to the proposed disposal.

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

- 4.3** The lease renewal will be managed according to the Local Government Act 1972, in terms of the rent receivable, and the Landlord & Tenant Act 1954 in respect of the statutory procedures to be followed.

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<b>Appendices</b>	1. Risk Assessment  2. Location Plan
<b>Background information</b>	1. None

## Risk Assessment

## Appendix 1

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
	That the tenants do not wish to renew the lease	DS	16/08/2018	5	1	5		To monitor the lease renewal		DR	