

# Cheltenham Borough Council

## Cabinet

### Proposed Leasehold Disposal of a Parcel of Open Space at Sandy Lane Recreation Ground

<b>Accountable member</b>	<b>Cabinet Member for Finance, Councillor John Rawson</b>
<b>Accountable officer</b>	<b>David Roberts (Head of Asset and Property Management)</b>
<b>Ward(s) affected</b>	<b>Charlton Park</b>
<b>Key Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>The Council has been approached by the current tenant (Old Patesians Sports and Social Club) at Sandy Lane Playing Field who wish to enter into a new lease term of 30 years to enable access to grant funding from the Rugby Football Union and implement a series of improvements to the playing surface at Sandy Lane. Old Patesians currently lease land within the recreation ground and any grant of a new lease will be subject to the requirements of S123(2a) Local Government Act 1972 as the land is considered to be Open Space.</p>
<b>Recommendations</b>	<p><b>1.0 That Cabinet agrees to declare surplus the parcel of open space land outlined in red on the attached plan (attached as Appendix A) and to authorise the placing of a Public Notice pursuant of Section 123(2a) of the Local Government Act 1972 in respect of the leasehold disposal of the parcel open space land relating to the Clubhouse at Sandy Lane Playing Fields, Cheltenham the location of which is outlined In red on the plan attached to this report.</b></p> <p><b>2.0 That any objections and representations which might be received in response to the advertisement be considered by Cabinet before making a recommendation to the Cabinet Member for Finance for a final decision concerning the land.</b></p> <p><b>3.0 That should no objections or representations be received in response to the advertisement, cabinet declares the land surplus and the matter is referred to the Cabinet Member for Finance for a final decision concerning the grant of a lease extension to Old Patesians at Sandy Lane.</b></p>

<b>Financial implications</b>	<p>Any new lease should be entered into on commercial terms allowing a reasonable financial return to the council whilst ensuring the council is not financially liable for ongoing maintenance of the land.</p> <p><b>Contact officer: Nina Philippidis, Accountant</b>  <b>nina.philippidis@cheltenham.gov.uk, 01242 775221</b></p>
<b>Legal implications</b>	<p>The area of land the subject of this report is not the playing fields themselves, which will remain open to the public.</p> <p>The Club has neither a contractual nor statutory right to call for a new lease at the current time. So far as the Council is concerned (as the provisions of the existing lease are dated), the most advantageous legal route to achieving the Club's objective of having a term in excess of 25 years to satisfy the RFU's requirements would be to surrender the existing lease and to grant a new lease, which would result in a lease on modern terms.</p> <p>The proposed grant of a new lease would require advertisement under s123 (2A) of the Local Government Act 1972, and consideration given to any objections, before the decision to grant the lease is made.</p> <p><b>Contact officer: Rose Gemmell, Rose.gemmell@teWKesbury.gov.uk, 01684 272014</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>None</p> <p><b>Contact officer: , @cheltenham.gov.uk, 01242</b></p>
<b>Key risks</b>	<p>None</p>
<b>Corporate and community plan Implications</b>	<p>None</p>
<b>Environmental and climate change implications</b>	

## 1. Background

- 1.1** In 1968 the Council agreed a lease, for a term of 63 years; of which 18 years of the term remain, to the Trustees of the Old Patesians Association (hereinafter referred to as 'Old Pats' for a parcel land at Sandy Lane recreation ground (which formerly formed part of Sandy Lane Tip), upon which they were permitted to construct a clubhouse and parking area.
- 1.2** Although 'Old Pats' lease the land upon which the clubhouse is constructed, they are only permitted to use the playing areas of the recreation ground by way of Licence. Due to the history of the site, the surface has deteriorated to an extent that the area is becoming unplayable at certain times of the year. 'Old Pats' has made an application for grant funding from the Rugby Football Union (hereinafter referred to as the RFU) to raise funds to improve the quality of the playing surface. The RFU has indicated that one of the terms of the grant agreement is that 'Old

Pats must be in possession of a lease for the clubhouse with a minimum term unexpired of 25 years, in order for any grant application to be considered.

- 1.3 In 2006 the Council produced a new Local Plan, Sandy Lane Recreation Ground is identified within that document as Public Green Space, the land leased by 'Old Pats' has been included within this.
- 1.4 In order for a conclusion to be reached as to whether a lease for a term of 30 years may be granted it is first required, by virtue of S123(1)(2a) of the Local Government Act 1972, that the proposed leasehold disposal is advertised in a local newspaper and for Cabinet to consider any representations made, thereafter.

## 2. Reasons for recommendations

- 2.1 Advertising the leasehold disposal of Open Space, will assist to inform any further commercial lease decisions in respect of the land leased to 'Old Pats'.
- 2.2 The current playing area is prone to localised flooding during periods of rainfall due to the general nature of the ground conditions, improvement of the playing surface will enhance the quality of the recreation ground for all users.
- 2.3 'Old Pats' is currently the premier Union Club in Cheltenham with a membership of approximately 500 people, many of whom are juniors and improvement of the playing surface will aid the club's ambition of retaining and growing the number of playing members.

## 3. Alternative options considered

- 3.1 The Cabinet could decide not to agree to place the requisite public notice, which would mean that 'Old Pats' would not be able to approach the Council at the present time for a new lease term, resulting in the failure of any application to the RFU to obtain grant funds for improving Sandy Lane Recreation Ground, the consequences of which is that the Club may seek assistance from the Council to ensure the playing surface is fit for purpose. In the current financial climate this is something that the Council is unlikely to be able to consider.

## 4. Consultation and feedback

- 4.1 Ward members have been consulted and no adverse comments have been received.

## 5. Performance management –monitoring and review

- 5.1 Not Applicable

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<b>Appendices</b>	1. Risk Assessment 2. Location Plan
<b>Background information</b>	1.

**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
1	If there is a high level of public objection to the disposal notice then it may result in a decision not to grant a new lease to Old Pat's	DLR	27 <sup>th</sup> Nov 2012	2	2	4	Accept	Monitor	End Dec 2012	DLR	
2	If the new lease is subsequently granted then this would deliver 2 of the Councils Corporate objectives, namely; strengthening our communities and enhancing and protecting our environment.	DLR	27 <sup>th</sup> Nov 2012	5	6	30	Accept	Support the application	End Dec 2012	DLR	