

## Appendix 1: Heritage Culture and Leisure Committee Report on Disposal of Land Adjacent to Gallagher Stadium

### Heritage, Culture and Leisure Committee

31 October 2017

Is the final decision on the recommendations in this exempt report to be made at this meeting?

Yes

### Disposal of Land Adjacent to Gallagher Stadium

<b>Final Decision-Maker</b>	Heritage, Culture and Leisure Committee
<b>Lead Head of Service</b>	Director of Finance and Business Improvement
<b>Lead Officer and Report Author</b>	Lucy Stroud – Corporate Property Manager
<b>Classification</b>	Public
<b>Wards affected</b>	North Ward

#### **This report makes the following recommendations to the final decision maker:**

1. That the Committee agrees to declare the open space adjacent to the Gallagher Stadium, as outlined in red on the attached plan in Appendix I, as surplus to operational requirements.
2. That the Committee agrees to authorise the placing of a public notice pursuant of Section 123 of the Local Government Act 1972 advertising the proposed disposal of the land.
3. That the Committee agrees that the land should be disposed to the Football Club for a term of 99 years at a peppercorn rent.
4. That the Director of Finance and Business Improvement uses delegated powers to conclude the lease negotiations.

#### **This report relates to the following corporate priorities:**

The football stadium regularly attracts large numbers of football fans, many of whom will go into the town, supporting the local economy.

#### **Timetable**

<b>Meeting</b>	<b>Date</b>
Heritage, Culture and Leisure Committee	31 October 2017

## **Appendix 1: Heritage Culture and Leisure Committee Report on Disposal of Land Adjacent to Gallagher Stadium**

### **Disposal of Land Adjacent to Gallagher Stadium**

#### **1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1 This report recommends that the Committee agrees to declare the land adjacent to the Gallagher Stadium surplus to operational requirements and to place a public notice in the Kent Messenger newspaper advertising the disposal.
- 1.2 If the Committee agrees that the land is surplus to requirements, it is invited to consider the method by which the land should be disposed, the options of which are set out in this report.

#### **2. INTRODUCTION AND BACKGROUND**

- 2.1 Maidstone United Football Club has approached Officers to request that a strip of land adjacent to the Stadium be transferred to the Club to enable the creation of a private access way as part of a new pedestrian exit from the Stadium.
- 2.2 As a result of promotion to the National Conference League, the Club has had to increase capacity from 3,000 spectators to at least 4,000. This has been achieved by building a new north stand, increasing capacity to 4,200.
- 2.3 We understand that the Club wishes to build terraces on the west side of the stadium, which is currently undeveloped with spectators simply standing behind the touchline. As this area is currently used as an exit route for the north stand, a new private access way will be needed behind the proposed new terraces in order to allow spectators to exit the north stand. The land in Appendix 1 is approximately 330 square metres and will be enclosed within a new boundary fence.
- 2.4 The land is currently an informal grass path and runs parallel to the public footpath connecting the river towpath to the footbridge. If the Council disposes of the land to allow construction of the private access way, the Club will instruct an ecologist to maintain a watching brief during the construction period to ensure no harm comes to any wildlife. Officers have met with representatives from the Club and their ecologist to confirm that the construction of the private access way will have minimal impact on the biodiversity in the area.
- 2.5 The proposed disposal is subject to the Council's policy on disposal of property, set out in Appendix II. The policy states that the Council will not usually dispose of public open space, but on occasions it may be beneficial to dispose of a small or discrete area of open space. The policy states that the Council will use leasehold disposal if there is a benefit in retaining freehold title, for example to ensure that the Council's responsibilities in relation to the land are maintained in perpetuity. In this case, the strategic location of the land, close to the town centre and adjoining trees and bushes that form a green barrier between the football stadium and the river

## **Appendix 1: Heritage Culture and Leisure Committee Report on Disposal of Land Adjacent to Gallagher Stadium**

and towpath, means that there is a strategic benefit to the Council in retaining freehold ownership. This report therefore recommends that the land is disposed of by means of a long lease.

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### **3. AVAILABLE OPTIONS**

- 3.1 The Committee could choose to declare the land surplus, advertise the intention to dispose, and continue to negotiate the disposal with the Club. There are two options for disposing of the land, either by a leasehold disposal or by transfer of the freehold.
- 3.2 Should the Committee decide to declare the land surplus it could be disposed of by way of a long leasehold of 99 years and at a peppercorn rent. This option would allow the Club to construct the access way and ensure that the stadium has safe pedestrian exit from the north stand. A leasehold disposal could be agreed at a peppercorn rent because, in line with the Council's Disposal Policy, the asset would remain within the Council's ownership but provide significant benefits to the Club and ultimately the community by means of stadium improvements.
- 3.3 Alternatively, the Committee could decide to declare the land surplus and dispose of the freehold interest in the land for market value. A current valuation of the land would be undertaken by independent valuers and the transfer of the land would have to include an overage clause to ensure that the Council is compensated for the loss of opportunity should the Club sell the land in future.
- 3.4 Discussions have taken place with Maidstone United Football Club about both potential disposal routes. The Club has expressed a preference for a freehold disposal on a number of grounds, principally the following:
- they do not wish to accept restrictions on the use of the land as the precise use may vary over the lifetime of the lease
  - they foresee that an ongoing lease agreement will create additional complexity and cost for them
  - the Football Club performs a social and community function and makes a significant contribution to the life of the town

The Club is aware that a freehold disposal would be contrary to the Council's disposal policy.

- 3.5 The final option available to the Committee is not to declare the land surplus, and retain it as open space.
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### **4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS**

- 4.1 The Committee is recommended to declare the land surplus, place the public notice, and considering any objections that may be received as a result of the notice, proceed with a leasehold disposal at a peppercorn rent.

**Appendix 1: Heritage Culture and Leisure Committee Report on Disposal of Land Adjacent to Gallagher Stadium**

- 4.2 Disposing of the land is in keeping with the Council’s Disposal Policy because there are direct community benefits from facilitating expansion of the football stadium, and wider benefits to the economy of the town. It is for these reasons that it is recommended that the rent be a peppercorn rather than a market rent, and that the leasehold disposal is the preferred option despite being for less than best consideration.
- 4.3 A leasehold disposal will provide the Club the land it requires to construct the new access way and provide a safe pedestrian route from the stadium. Agreeing a peppercorn rent ensures that the Club is not financially constrained by the lease and their plans are not hampered by additional funding requirements.
- 4.4 A leasehold disposal is recommended as opposed to a freehold disposal as the Council has an ongoing strategic interest in the site because of its location.

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**5. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK**

- 5.1 The Heritage, Culture and Leisure Committee previously considered this matter on the 4<sup>th</sup> April 2017, at which time it was decided to not declare the land surplus and that the possibility of granting a licence to the Club be considered.
- 5.2 A licence is not an appropriate method of disposal because it allows shared use of the land. The access way that the Club desires to create will be fenced and only available to use by spectators within the stadium. Therefore a leasehold or a freehold disposal are the only available options.
- 5.3 Consultation will be through the publication of the Section 123 public notice.

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**6. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION**

- 6.1 Following the public notice appearing in the Kent Messenger newspaper, and allowing a period for objections and comments, further negotiations will take place with the Club based on the method of disposal that the Committee decide upon.
- 6.2 Negotiations with the Club will be taken by the Director of Finance and Business Improvement under delegated authority.

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**7. CROSS-CUTTING ISSUES AND IMPLICATIONS**

<b>Issue</b>	<b>Implications</b>	<b>Sign-off</b>
<b>Impact on Corporate Priorities</b>	The football stadium regularly attracts large numbers of	Director of Finance &

**Appendix 1: Heritage Culture and Leisure Committee Report on Disposal of Land Adjacent to Gallagher Stadium**

	football fans, many of whom will go into the town, supporting the local economy.	Business Improvement
<b>Risk Management</b>	No impact.	
<b>Financial</b>	The financial implications are set out in the report.	Director of Finance and Business Improvement
<b>Staffing</b>	No impact.	
<b>Legal</b>	<p>The Council may dispose of land held in any manner it wishes but the Council may not dispose of land, otherwise than by way of a short tenancy, for a consideration less than the best that can reasonably be obtained.</p> <p>There is an exception to this general rule where the Council is able to dispose of a site for less than its market value, if the Council can demonstrate the disposal will help to secure the improvement of the economic, social or environmental wellbeing of the whole or any part of its area and the undervalue does not exceed £2 million.</p> <p>All disposals also need to comply with the European Commission's State Aid Rules. The undervalue proposed in this report will not exceed the De Minimis Regulation of the European Commission. If it is agreed to dispose of the land at an undervalue, a record of the state aid must be kept.</p>	Team Leader Property & Regeneration
<b>Equality Impact Needs Assessment</b>	No impact.	
<b>Environmental/Sustainable Development</b>	No impact	

## **Appendix 1: Heritage Culture and Leisure Committee Report on Disposal of Land Adjacent to Gallagher Stadium**

<b>Community Safety</b>	No impact.	
<b>Human Rights Act</b>	No impact.	
<b>Procurement</b>	No impact.	
<b>Asset Management</b>	The asset will be disposed of.	

### **8. REPORT APPENDICES**

The following documents are to be published with this report and form part of the report:

- Appendix I: Site Plan
  - Appendix II: Maidstone Borough Council Policy on Disposal of Property
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### **9. BACKGROUND PAPERS**

- 9.1 Heritage, Culture and Leisure Decision 4<sup>th</sup> April 2017 - <https://services.maidstone.gov.uk/meetings/documents/g2691/Decisions%2004th-Apr-2017%2018.30%20Heritage%20Culture%20and%20Leisure%20Committee.pdf?T=2>