

CABINET

24 September 2013

Title: May and Baker Sports Ground	
Report of the Leader of the Council	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
Report Author: Paul Hogan, Divisional Director, Culture and Sport	Contact Details: Tel: 020 227 3576 E-mail: paul.hogan@lbbd.gov.uk
Accountable Divisional Director: Paul Hogan, Divisional Director, Culture and Sport	
Accountable Director: Anne Bristow, Corporate Director, Adult and Community Services	
Summary: <p>The ownership of the May and Baker sports ground will transfer to the Council as part of the s106 agreement relating to the disposal of the Sanofi site.</p> <p>Due to the revenue cost implications and limited grounds maintenance staffing capacity, it is not considered appropriate for the facilities and services provided at the sports ground to be delivered by the Council.</p> <p>The May and Baker Eastbrook Community Club, a limited company with charitable status, has been established with the view to the Club taking on the financial and operational responsibility for the site at no cost to the Council.</p> <p>Authority is sought to grant a 25 year lease to the May and Baker Eastbrook Community Club.</p>	
Recommendation(s) <p>The Cabinet is recommended to authorise the Chief Executive, in consultation with the Head of Legal and Democratic Services and Chief Finance Officer, to grant a 25 year lease for the May and Baker sports ground, as shown edged red on the plan at Appendix 1, to the May and Baker Eastbrook Community Club, subject to satisfactory negotiation of the lease and associated requirements relating to the land transfer of the sports ground from Sanofi to the Council.</p>	
Reason(s) <p>The proposal will assist the Council in making better use of its resources and assets and links to the overall priority and vision for better health and wellbeing.</p>	

1. Introduction and Background

- 1.1 The May and Baker sports ground is located off Dagenham Road in Dagenham and is adjacent to the Eastbrookend Country Park. Due to the range and quality of facilities at the ground, it is considered to be the Borough's most important outdoor sports facility not currently in Council ownership.
- 1.2 The site is owned by Sanofi and comprises the following facilities:
- 6 x football pitches – used by 16+ football teams (including 10 youth teams);
 - Floodlit training area;
 - 2 x rugby pitches – used by 2 rugby teams;
 - 2 x cricket pitches – used by 10 cricket teams (including 4 youth teams)
 - 1 x squash court
 - Fitness centre
 - Tennis courts – used by two tennis teams in the Romford and District League.
- 1.3 Dagenham and Redbridge football club use the site as a training ground and a base for its academy teams.
- 1.4 The ground also has good quality changing rooms and a variety of rooms that can be used for social events including bar and catering facilities.

2. Proposals and Issues

- 2.1 The day to day operation of the site is currently managed by the May and Baker sports and social club on behalf of Sanofi.
- 2.2 It is expected that Sanofi will vacate their site including the sports ground and facilities during 2013.
- 2.3 The Council wants to protect the site for use by future generations to play sport but in these times of austerity it is not feasible to provide any ongoing revenue or capital funding to enable this to happen.
- 2.4 As part of the s106 agreement between the Council and Sanofi, the ownership (freehold) of the sports facilities and playing pitches will transfer to the Council when Sanofi vacate the site and have satisfied the obligations set out in the s106 agreement.
- 2.5 This requires Sanofi to transfer the land (greenbelt to be incorporated into the Eastbrookend Country Park and the sports ground, which is the focus of this report) following satisfaction of certain conditions including remediation works, provision of utilities services to the existing clubhouse and football pitches, and to provide the Council with the necessary remediation and survey reports.
- 2.6 Following satisfaction of the conditions Sanofi will serve a transfer notice on the Council requiring the Council to accept the transfer of the freehold interest for a peppercorn. The Council will remain liable for the site until grant of the lease to the Community Club.

2.7 Sanofi's approach to meeting the terms of the s106 agreement has been exemplary and goes well beyond what could have reasonably been expected of them. They have invested significant funds to bring the sports facilities up to scratch and have addressed all of the structural, mechanical and electrical and fabric issues identified in the condition surveys. Sanofi has also provided one off revenue funding to support the first year's operation of the new club and the development and implementation of a fundraising strategy.

2.8 The remaining outstanding works, which are in relation to legionella management, are currently being implemented and a verbal update on progress will be provided at the Cabinet meeting.

3. Options appraisal

3.1 The land transfer of the May and Baker sports ground and associated facilities to the Council has already been agreed (but not yet implemented) as part of the s106 agreement for the disposal of the Sanofi site; therefore, the options available to Cabinet are limited to deciding on the most efficient and effective way to manage the sports ground.

3.2 Option A – the Council directly manages and maintains the sports ground and buildings. This option is not recommended because the Council's Environment service would not be able to fulfil this role without revenue subsidy.

3.3 Option B – identify a private sector partner to manage and maintain the sports ground and buildings on behalf of the Council via a long term contract or long term lease arrangement. This option is not recommended because it is likely that this would require an element of subsidy from the Council and because this approach would not support community involvement in the development and operation of the facilities, which was a key issue for Ward Councillors, local sports clubs and the wider community during the consultation process about the future of the site.

3.4 Option C – establish a community trust (limited company with charitable status) to manage and maintain the sports ground and buildings. This is preferred option because it is expected that the community trust will not require any revenue subsidy from the Council. Also the membership of the community trust is firmly rooted in the local community which will help to ensure that its focus will be to support the development of grass roots sport and to get more local people involved in sport and physical activity.

4. Consultation

4.1 The Eastbrook Ward Councillors have been directly involved in shaping the development of the May and Baker Eastbrook Community Club and are now directors (trustees) of the club.

4.2 The proposals set out in this report have also been the subject of a report to the Council's Property Advisory Group, which has endorsed the recommendations contained in this report.

- 4.3 Public meetings were held to inform local people and sports clubs about the proposals for the future operation of the sports ground and to encourage interested people to become directly involved in the new community club.

5. Financial Implications

Implications completed by: Roger Hampson, Group Manager - Finance

- 5.1 There are no direct financial implications for the Council. The preferred option would see the sports ground operated at no cost to the Council by a community club via a long term lease.
- 5.2 It is proposed that the financial terms of the lease will be a commercial rent, which is then wholly offset by a grant from the Council. This is because the Club has been established by the Council as a vehicle to enable the substantial revenue costs that would otherwise be incurred for an 'in house' operation to be avoided.
- 5.3 It should be noted that if the community club fails then the sports ground would revert to the Council. If this occurs it is likely that the Council would incur revenue costs until a new management arrangement could be put in place.

6. Legal Implications

Implications completed by: Jason Ofosu, Acting Senior Property Lawyer

- 6.1 The Council will retain the freehold interest and grant a long lease of 25 years for a commercial rent to the May and Baker Eastbrook Community Club.
- 6.2 The Council will enter into a management agreement with the relevant Community Association to deal with the management of the Centre.
- 6.3 The Council and the relevant Community Association will agree heads of terms for leasing arrangements.
- 6.4 The Chief Executive can agree the terms of the lease and management agreements in consultation with the Chief Finance Officer (Constitution Land Acquisition and Disposals Rules refer) and on the advice of Property Services and the Legal Practice.
- 6.5 Section 123 Local Government Act 1972 and the Council's Land Disposal rules require land to be disposed of at market value. The Council has a general power of competence under section 1 of the Localism Act, although as always its application of these powers must be carefully considered and appropriate to the relevant circumstances. Section 1 of the Localism Act allows the Council "to do anything that individuals generally may do". Therefore the council could decide the rent does not have to be market value since the Community Association is acting for the benefit of the Council, its area or persons' resident or present in the area.
- 6.6 The lease should be a full repairing and insuring lease so that the Council do not bear the cost of repair and maintenance of the Property. The Legal Practice should be consulted on the preparation and completion of the lease.

7. Other Implications

7.1 **Risk Management** – There are considered to be three key risks associated with this proposal: asset management; governance; sustainability.

Asset management

Under the terms of the s106 agreement Sanofi has undertaken a condition survey of the premises at the sports ground and is required to implement the necessary remedial works identified in relation to the building structure and fabric as well as mechanical and electrical installations and legionella management. The necessary works are now being completed and will be approved by the Council's Assets and Commercial Services team.

On this basis Members can be confident that the facilities are sound, in a good state of repair and fit for purpose. Under the terms of the proposed lease, the community club will be responsible for repairs, maintenance and insurance of the site and an inspection regime will be put in place to ensure compliance.

Governance

Currently the site is managed on a day to day basis by the May and Baker sports and social club, which will cease to operate on the approval of the lease to the May and Baker Eastbrook Community Club. The site and facilities will then be operated for the benefit of the whole community and no longer run as a private club.

The Community Club has been established by the Council as a limited company with charitable status. The Council can appoint up to seven trustees (directors) of the Club. Following a public consultation exercise, a strong and representative management board has been established with trustees including members of the existing management committee of the May and Baker sports club; the head teacher and bursar from Eastbrook School; Jon Cruddas MP; the managing director of Dagenham and Redbridge football club; and the three Eastbrook ward councillors amongst others.

Fit and proper person checks have been completed for trustees.

The trustees are now meeting as a 'shadow board' so that they can effectively take control of the management of the site as soon as the lease is approved.

A trading company has been established to operate the bar and catering facilities at the site. All profits from this operation will be used to subsidise the activities of the Club.

It is considered that the governance arrangements that have been put in place will provide adequate oversight of the operation of the community club to ensure that the Council's interests are protected.

Sustainability

The proposed length of lease (25 years) will enable the Club to apply for funding to Sport England and to charitable trusts and relevant National Governing Bodies for sport.

The business plan for the Club sets out the requirement to raise c£30,000 per annum from fundraising activities to balance the books, which is in addition to income from trading activities and pitch hire. Whilst it is considered that this is achievable, the financial model for the operation of the site would be unsustainable if there is a requirement to pay a commercial rent without this being wholly offset by a grant.

It is understood that corporate guidelines are to be produced that will set out how this type of grant support will be monitored consistently across the Council.

7.2 **Contractual issues** – The legal implications section sets out the Council’s powers in relation to this matter. Legal Services will be fully consulted and will prepare all the necessary legal documentation.

7.3 **Customer impact** - It is expected that the existing clubs and individuals who currently use the sports ground and associated facilities will continue to do so under the proposed management regime.

Due to the change in governance arrangements to a charitable trust with community and councillor involvement, it is anticipated that there will be improved access for local people to participate in sport and physical activity at the sports ground.

7.4 **Crime and Disorder Issues** - The Council has a statutory duty to consider crime and disorder implications in all its decision making. The community club will provide a wide range of activities and quality facilities, which will provide positive activities for all residents.

7.5 **Health issues** – It is well known that a lack of physical activity is one of the main risk factors for heart disease and diabetes. But less well known is the fact that a lack of physical activity can increase risk factors in a range of other health areas, including mental health.

The activities delivered at the sports ground are consistent with our Health and Wellbeing Strategy to improve the health and well-being of individuals and build community cohesion through increased participation of children, young people and adults in sport and physical activity.

7.6 **Safeguarding Vulnerable Adults and Children** - The community club will provide an extensive programme of positive and diversionary activities for young people.

Officers will work with trustees of the club to establish robust safeguarding policies and procedures. It will be a condition of use that clubs using the sports ground will have appropriate procedures in place in line with the safeguarding policies of their respective National Governing Bodies.

7.7 **Property/Asset issues** – it is intended that the terms of the lease will require the community club to repair, maintain and insure the facilities at the sports ground.

Background Papers Used in the Preparation of the Report:

None

List of appendices:

Appendix 1 –Location Plan