

Report to: Policy and Resources Committee, 13th December 2022

Report of: Deputy Director - Corporate Policy & Strategy

Subject: CINDERELLA GROUND WORCESTER - UNDERLEASE

1. Recommendation

1.1 That the Committee delegate to the Corporate Director – Finance and Resources, in consultation with the Chair and Vice Chairs of this Committee, authority to enter into all necessary contracts and agreements to grant an under-lease to Kings School Worcester Foundation as detailed within this report.

2. Background

Historical context

- 2.1 The Cinderella Sports Ground on Bransford Road, Worcester is a site of special historic significance for Worcester. It was the original home ground for Worcestershire County Cricket Club, now based at New Road. The legendary W. G. Grace played there for the County as a 20 year-old in 1870, and the first Australian touring side played there in 1878.
- 2.2 Once the “works ground” for the city’s Cinderella shoe factory, more recently it was the site of the sports and social club of Kays Catalogues, offering cricket and football and the quality of the pitches was renowned on the local sporting scene.
- 2.3 Following the closure of Kays in 2007 the developer Arndale led a residential development on the wider site, with planning permission also granted in 2007. The Cinderella Ground retained status as sports pitches and in 2015 the City Council took up an option with Arndale (which had been secured in 2007) and entered into a 25 year lease for the ground, with the intention of renovating the site in conjunction with the Heart of Worcestershire College.
- 2.4 The original project proposal was that Heart of Worcestershire College take on a lease of the site from the Council, and renovate the site to provide football and cricket facilities to be used by HOW to deliver educational and community engagement activities, and to also be available for use by community sports clubs. The Council and HOW entered into an agreement to lease to this effect in February 2014.
- 2.5 Proposed improvement works consisted of a new cricket square with football pitches and a pavilion and changing facility. Subsequently, the project was revised to include the provision of a new pavilion and changing facility under a contract let by the Council with the underlease to be granted on completion of all of the works.

- 2.6 The project was subject to a number of delays, including significant change to the plans for the pavilion. The original intention was to renovate the existing black and white pavilion, but this proved unfeasible due to the condition of the structure. The old pavilion was dismantled and is now in the ownership of Avoncroft Museum of Historic Buildings where the intention is that it will be rebuilt when the museum has raised sufficient funding. A new pavilion was designed and planning approval secured
- 2.7 All works have now been completed, utilising approved capital funding from the Council, s106 contributions, and funding provided by Heart of Worcestershire College, Sport England, and the England and Wales Cricket Board.
- 2.8 The Cinderella Ground is now a high-quality facility which has been in use for cricket since late 2020. Users have included the third teams of two cricket clubs based just outside the City boundaries, the Taxi Super League competition, and junior County cricket under the Worcestershire Cricket Board.
- 2.9 A draft lease has been agreed with HOW alongside a supporting Community Use agreement which covers use of the facility by community organisations.
- 2.10 Since the inception of the project HOW's requirement for a site for football has changed. The s106 funded renovation of pitches at Perdiswell that was completed in 2018, alongside a dedicated teaching facility within the leisure centre enabled HOW to locate their football offer at Perdiswell and removed the demand for HOW to utilise Cinderella.
- 2.11 Whilst remaining committed to the project, HOW explored other options and protracted discussions with a third party were held exploring the potential for HOW to relinquish the lease to that organisation. Council officers supported these discussions in the interests of finding the best outcome for the Cinderella Ground but after detailed consideration the third party organisation chose not to proceed.
- 2.12 This left HOW with a facility that is surplus to requirements and incurring an annual cost for maintenance and management.
- 2.13 Notwithstanding the quality of the facility, officers have some concerns over the standard of grounds maintenance at the site, particularly to the cricket square and also the surrounding outfield / football pitches. Usage of the pitches is below the ideal level which would warrant more intensive maintenance required to maintain standards.
- 2.14 The frequency, intensity and specification for sports pitch maintenance works varies depending on usage and weather conditions and so with a low level of usage and a third-party contractor being engaged to travel to site to carry out minimal works there is a risk of the facilities not being maintained to a satisfactory standard. This is exacerbated by the fact that the usage does not match the costs for maintenance.
- 2.15 Whilst HOW have acted in good faith and support of the original project, there is a risk that HOW will seek to absolve itself from any involvement in the site, despite the agreement to lease.
- 2.16 During the summer of 2022 HOW and the Council were approached by The King's School, Worcester Foundation (KSW), the body representing the independent schools of King's School Worcester, King's St Alban's and King's Hawford.

Following some discussion and exchange of information over the summer, KSW and HOW have presented a proposal to the Council for King's to take the under lease for the Cinderella Ground.

- 2.17 KSW's primary benefit would be use of additional sporting facility to ease pressure on existing sites during term time and mid-week, particularly cricket at New Road. Cinderella would also provide some resilience during times of flood.
- 2.18 The site would also support delivery of KSW's commitment to community outreach, which currently includes the following
- The longstanding partnership with Bishop Perowne School that saw KSW fund a shared use artificial pitch in 2010
 - Free access to the Foundation's King's Hawford swimming pool for Perryfields Community Association's learn to swim for Asian women project
 - Providing free swimming at King's Worcester for Nunnery Wood Primary School
 - Providing free access to Personal Social Health and Economic Education (PHSE) resources to Cherry Orchard Primary School
 - Hosting local primary schools at a termly sports programme
 - Running workshops for Continued Professional Development for Early Years Foundation Stage staff supporting children with anxiety or mental ill health
 - Hosting "Spooky Stories in the Undercroft", a year 5/6 English event for local primary schools
- 2.19 KSW's proposals for the Cinderella site include
- the potential for it to be a base for women's and disabled cricket through the Worcestershire Cricket Board (WCB)
 - cricket tournaments for local primary schools
 - hosting WCB and King's summer camps
 - local primary school use for PE, cricket and general sports.
- 2.20 The KSW proposal will see year-round use of the site for cricket rugby and football, with existing community use maintained and expanded alongside regular use by the school in term times.
- 2.21 This more intensive use will ensure that the facilities are maintained to a high standard, and KSW have also indicated their intention to invest in an artificial cricket pitch and to install ball stop netting to protect neighbouring properties.

3. Preferred Option

- 3.1 It is recommended that the appropriate legal agreements are entered into for KSW to take on the underlease with full maintenance and repairing obligations.
- 3.2 The draft heads of terms at **Appendix A** replicate those previously agreed by the Council with HOW.
- 3.3 **Appendix B** outlines the draft community use agreement.
- 3.4 The agreement will include the aims agreed with KSW as follows
- Securing the long-term viability of the facility as a sports ground for use by to the benefit of the community and King's School, Worcester Foundation.

- Providing opportunities for the local community and sports organisations to participate in sport and physical activity for health improvement and development of their skills, particularly amongst low participation groups.
- Operating in line with the national agenda for sport taking into account nationally adopted strategies.
- Generating positive attitudes in sport and physical activity by young people and reducing the dropout rate in sports participation with age.
- Increasing the number of people of all ages and abilities participating in sport and physical activity including people with disabilities.
- Maximising the usage of the facilities whilst maintaining the quality of the pitches and facilities.
- To provide affordable access to the facilities and to be self-financing in terms of community use.
- Primary use of the Sports Facilities is for junior and senior club cricket. Football and rugby will be accommodated without adverse impact on the availability and quality of cricket facilities.

3.5 The community use agreement also ensures that in the event of KSW making a surplus on the operation of the ground, that this is invested in improving the facilities and / or subsidising community use.

3.6 Subject to approval by Committee the required legal agreements will be entered into to sub lease the Cinderella Ground to KSW and simultaneously release HOW from the agreement to lease.

4. Alternative Options Considered

4.1 Continuing with the current arrangement is not recommended. HOW are now a reluctant lessee, and there is a significant risk that they would relinquish the lease.

4.2 The Council could manage the site directly. This is not recommended for the following reasons:

4.2.1 The Council does not have the experience, expertise, equipment or resource to maintain a grass cricket pitch to the standard required.

4.2.2 The Council does not currently have the experience or capacity to manage the site in terms of facilities and bookings.

4.2.3 The current arrangement is at no ongoing revenue cost to the Council. Taking on the site would incur costs estimated to be upwards of £30k p.a. for maintenance plus management overheads.

4.3 The Council could manage the site through a third party. This is not recommended for the following reasons:

4.3.1 No third party has been identified.

4.3.2 The current arrangement is at no ongoing revenue cost to the Council. Taking on the site would incur costs estimated to be upwards of £30k p.a. plus management fees.

4.4 The Council could surrender the lease and return the site to the developer. This would be likely to lead to the eventual loss of the site as a sports ground, community facility and green space and is therefore not recommended.

4.5 The Council could retain the lease and manage the site as a green space without sports facilities. This would trigger clawback of the grants from Sport England and the England and Wales Cricket Board to the value of £115k. The benefits of the significant investment in pitch renovations and construction of the pavilion would be lost. Ongoing revenue costs for maintenance of the site would be incurred which would include boundary fencing, the sports pavilion and the equipment shed. This option is therefore not recommended.

5. Implications

5.1 Financial and Budgetary Implications

None arising directly from the proposals within this report. Should the Council be required to manage the site then ongoing revenue costs of at least £50k p.a. could be incurred.

5.2 Legal and Governance Implications

Covered within the main body of this report.

5.3 Risk Implications

Whilst the Council's position is currently protected by the agreement to lease entered into by HOW college, there is a risk that HOW may seek to terminate the agreement to lease and surrender their occupation of the site, leaving the Council responsible for the management of the site, which would incur a minimum revenue cost estimated at £50k p.a. for grounds maintenance and management.

5.4 Corporate/Policy Implications

The proposals within this report will increase the usage of the site, supporting levels of sporting activity within the community. This supports the Healthy and Active aim of the City Plan.

5.5 Equality Implications

The proposals within this report seek to support use by minority and low-income groups in addition to the core usage by KSW.

5.6 Human Resources Implications

There will be ongoing officer time required to monitor usage of the site. This will be met from existing resources. Taking on the maintenance and management of the site would require additional staff resource.

5.7 Health and Safety Implications

No implications arise from the proposals within this report

5.8 Social, Environmental and Economic Implications

The proposals within this report will support the continued viability of the site as a sports ground and green space, with wildlife habitat around the boundaries of the site. Usage by local clubs and organisations supports community cohesion.

Ward(s):

Bedwardine

Contact Officer:

David Sutton, david.sutton@worchester.gov.uk

Background Papers:

Reports to Cabinet, February 2012, March 2017

Appendix A

Heads of terms for lease to Kings School, Worcester Foundation

WITHOUT PREJUDICE AND SUBJECT TO CONTRACT

DRAFT HEADS OF TERMS

for an underlease of

The Cinderella Sports Ground

Bransford Rd

Worcester

Head Lease	A lease dated 20 th July 2015 between Arndale Properties Limited (1) Worcester City Council (2) and BDW Trading Limited (3)
Head Lessor	Arndale Properties Ltd
Lessor	Worcester City Council
Lessee	The King's School, Worcester Foundation
Premises	land and buildings known as " the Cinderella Sports Ground" at 202 Bransford Rd, Worcester shown edged red on plan , together with the rights to use the access road edged brown and parking area edged green situate on the adjoining land. (n.b. references to the plan are as annexed to the head lease)
Term	term to coincide with the term of the headlease less 5 days
Rent	One peppercorn per annum
Outgoings	Lessee to pay all rates and other outgoing
Use	Use for outdoor sports and outdoor recreation and purposes ancillary thereto together with use of the buildings on the premises as sports pavilions and changing rooms.
Alienation	Lessee not to assign or sublet.
Repairs	Full repairing and insuring terms.
Security of tenure	The lease will be subject to an agreement between the lessor and the lessee to exclude the provisions of Sections 24 to 28 of the Landlord and Tenant Act 1954
Costs	Each party to bear their own proper legal costs involved in the grant of the lease
Alterations'	Not to undertake any alterations to the premises other than as may be required in connection with the use of the property for outdoor sports and outdoor recreation purposes.

Planning The lessee shall not apply for any planning permission for the premises without the lessor and head lessor's consent

Other all other terms to reflect those contained in the head lease

Date:

WORCESTER CITY COUNCIL

and

KINGS SCHOOL, WORCESTER FOUNDATION

Draft Agreement in relation to
arrangements for community use of
sports facilities at Cinderella Sports
Ground Bransford Road Worcester

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Casual Use	means availability for any individual(s) or groups to book the Sports Facilities in advance for use on a pay-as-you-play basis, where space is available
Grant Funding	means the grant funding towards the cost of the provision of the Sporting Facilities at the Property provided by Sports England and the England and Wales Cricket Board
Property	means all that land at Cinderella Sports Ground Bransford Road Worcester shown edged xxx on the Plan
Parties	means the parties to this Agreement
Plan	the plan annexed hereto
Priority Groups	means those groups identified by the Parties as being under represented for the particular activity engaged in
Review Committee	means representatives of each of the Parties to this Agreement or their nominees
Sports Facilities	means the Pavilion and sportsgrounds at the property comprising cricket and football pitches.
Superior Lease	the lease to the Council dated 20 th July 2015 and made between Arndale Properties Limited (1) Worcester City Council (2) and BDW Trading Limited (3) and any documents made supplemental to it
Sub-Lease	the lease by virtue of which KSW holds the Property, which is dated [INSERT DATE] and made between (1) Worcester City Council and (2) HOW College and any documents made supplemental to it

3. Aims

The Parties agree to pursue the following aims:

- Securing the long term viability of the facility as a sports ground for use by to the benefit of the community and King's Worcester Foundation
- Providing opportunities for the local community and sports organisations to participate in sport and physical activity for health improvement and development of their skills, particularly amongst low participant groups;
- Operating in line with the national agenda for sport taking into account nationally adopted strategies;
- Generating positive attitudes in sport and physical activity by young people and reducing the drop out rate in sports participation with age;
- Increasing the number of people of all ages and abilities participating in sport and physical activity including people with disabilities;
- Maximising the usage of the facilities whilst maintaining the quality of the pitches and facilities;
- To provide affordable access to the facilities and to be self financing in terms of community use;
- Primary use of the Sports Facilities is for junior and senior club cricket. Football and rugby will be accommodated without adverse impact on the availability and quality of cricket facilities.

4. Arrangements for Community Use

KSW agrees to make the Sports Facilities available for Community Use in accordance with the provisions of Schedule 1 to this Agreement and the terms of the Grant Funding.

5. Targets for Community Use

KSW shall use reasonable endeavours to achieve community use targets in line with appropriate sports development strategies, including making a contribution to local participation targets for sporting and physical activity. KSW shall work with the

Council and sports governing bodies to provide a range of opportunities and pathways for the community. These may include existing initiatives and will also include new and local activities.

6. Marketing and Promotion

KSW will be responsible for marketing and promoting the Sports Facilities in accordance with the agreed aims and targets.

7. Additional Use

KSW may enter into hire agreements for additional use of the ground where this does not adversely impact on availability for community use or contravene the obligations of the Council under the grant conditions

8. Financial Matters

8.1 KSW endeavours to ensure that the costs of operating the Sports Facilities will be covered by income from such use and any surplus will be utilised to:

- 8.1.1 contribute to improvement, major maintenance, repairs and ultimately renewal of fixed life elements of the Sports Facilities.
- 8.1.2 increase the use of the Sports Facilities by any Priority Groups by staging special promotions or by offering discounted rates of hire;

9. Monitoring and Review

- 9.1 [Two] months prior to the date on which the Review Committee produces its annual report KSW shall make available to the Council details of all usage, bookings, maintenance and financial matters relating to the Community Use of the Sports Facilities to assist with the development and improvement of community access.
- 9.2 The Review Committee shall undertake an assessment of the adequacy of the implementation of this Agreement in relation to:
 - hours of use of the Sports Facilities;
 - pricing policy;
 - compliance with targets and aims of this Agreement;
 - marketing;

- financial performance of the Sports Facilities during the previous year; and
- maintenance.

9.3 The Review Committee shall prepare an annual report each November based on the above assessment and prepare reasonable recommendations as to how Community Use of the Sports Facilities can be further developed and improved.

9.4 KSW shall implement all reasonable recommendations of the Review Committee as soon as reasonably practicable.

9.5 In the event any significant changes are required to this Agreement as a consequence of each or any annual review prior written approval of each of the Parties to this Agreement shall be required.

10. Grant Funding

KSW covenants that it will not undertake or permit any activity that will cause the Council to be in breach of the conditions of the grant funding agreements entered into by the Council with Sports England and the England and Wales Cricket Board in respect of the Property.

11. Duration of Agreement

This Agreement shall operate for so long as KSW occupies the Property pursuant to the provisions of the Sub-Lease. In the event KSW should cease the Parties agree to make every effort to secure the continued operation of the Sports Facilities for Community Use.

12. Authority

KSW warrants that it has the full right and authority to enter into this Agreement.

13. No Variations

This Agreement may only be varied in writing by a document executed by all the Parties hereto.

14. No Agency

Nothing in this Agreement shall be construed as creating a partnership, a joint venture, a contract of employment or a relationship of principal and agent between the parties hereto.

15. Severability

If any term condition or provision contained in this Agreement shall be held to be invalid unlawful or unenforceable to any extent such term condition or provision shall (save where it goes to the root of this Agreement) not affect the validity legality or enforceability of the remaining parts of this Agreement.

16. Waiver

No term or provision of this Agreement shall be considered as waived by any party to this Agreement unless a waiver is given in writing by that party.

17. Non-Assignability

This Agreement is personal to the parties and none of them shall assign sub-contract or otherwise deal with their rights or obligations without the prior written consent of the others.

18. Governing Law and Jurisdiction

This Agreement shall be governed by the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

Schedule 1

Arrangements for Community Use

1. Users

1.1 The Sports Facilities shall be made available for Community Use as a minimum at the times detailed in paragraph 2 below.

2. Hours of Access

- (i) For recreational club cricket by community cricket club(s) on all Saturdays during the cricket season.
- (ii) For community cricket clubs and junior representative cricket on all Sundays during the cricket season.
- (iii) Ground to be available for matches to support competitions approved by the Worcestershire Cricket Board at various periods throughout the cricket season, subject to availability and demand.
- (iv) Junior football pitches to be available to local club(s) outside the cricket season.
- (v) casual use (ad hoc public hire subject to availability)
- (vi) Additional community use over and above that detailed above subject to maintaining the Sports Facilities in good condition and not "over playing" the pitches to protect them to fit in with KSW requirements for use.

3. Pricing

3.1 A policy of affordable pricing shall apply to support Community Use and in accordance with the aims of this Agreement.

3.2 Cricket pitch hire prices shall be reasonable and agreed between KSW and club(s) to the satisfaction of the Council.

3.3 Football pitches shall be charged at reasonable rental fee to the satisfaction of the Council and shall be no greater than for similar local authority owned facilities in the City of Worcester.

4. Booking arrangements

- 4.1 An easy and accessible advance booking arrangement for Casual Use and block bookings shall be established for hire of the Sports Facilities using a standard booking form.

5. Parking Arrangements

- 5.1 The car parking spaces shown on the Plan shall be available to park for community users on a first come first served basis

IN WITNESS whereof the hands of the parties or their duly authorised representatives the day and year first above written.

Signed by

Duly authorised to sign on behalf of the Council

Signed by

Duly authorised to sign on behalf of KSW