

Committee: **Council (acting in its capacity as Corporate Trustee)**

Date of meeting: **25th January 2024**

Report Subject: **Application to Lease Club and Premises at Eugene Cross Park, Ebbw Vale**

Portfolio Holder: **Not applicable – Council Acting in its Role as Charity Trustee**

Report Submitted by: **Louise Horner – Team Manager Estates & Strategic Asset Management**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Governance Audit Committee	Democratic Services Committee	Scrutiny Committee	Cabinet	Council	Other (please state)
16 Jan 2024	19/01/24						25/01/24	

1. Purpose of the Report

- 1.1 To obtain the approval of the Council (acting as Trustees of the Ebbw Vale Recreation Grounds and Institute – Charity No. 524340) to the lease of Eugene Cross Park Clubhouse, Changing Room, Stand, Terracing and 3 no. Pitches, shown edged red on the plan attached to Appendix 1 to Eugene Cross Park Sports Limited.

2. Scope and Background

- 2.1 The Council's ownership of Ebbw Vale Recreation Grounds and Institute (EVRGI) is governed by a Conveyance dated 12th July 1948 and a Scheme of the Charity Commission made on 12th October 1987.
- 2.2 Eugene Cross Park Sports Limited (ECPSL), a company limited by guarantee and set up on 1st March 2019, is seeking to take a lease of the clubhouse, changing rooms, stand and 3 pitches based on a 35 year term. Its Articles of Association state that the purpose of the Company is "the advancement of sport and promotion of community participation in healthy recreation for the benefit of the inhabitants of Ebbw Vale and the surrounding area in particular by the provision of facilities for all genders for boxing, football, and rugby". The Articles show it to be a not-for-profit company as "all surplus income or profits of the Company are to be reinvested in the Company. No surpluses or assets will be distributed to members or third parties".
- 2.3 The property that ECPSL is seeking to lease forms part of a larger holding all of which must be used in accordance with the objects of the Charity which state that the land shall be "... recreation grounds for the use of the inhabitants of the Community of Ebbw Vale..." As such, in charitable terms the land is termed "designated land" i.e. designated for the above purposes. As the land within the proposed disposal (lease) will not be replaced, it will be necessary to make an application to the Charities Commission for consent to the lease.

2.4 A charity who wishes to dispose of an interest in land exceeding a term of 7 years must act in accordance with the Charities Act 2011. The general requirements of the Act are as follows:

- Obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the Council as trustee and acting exclusively for the relevant charity.
- the proposals are advertised on site and within local newspapers.
- a report together with any representations are submitted and agreed by Council acting as Trustees that they are satisfied, having considered the surveyor's report, that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity.
- and the subsequent request to the Charity Commission to affect such disposals are approved and their consent provided.

2.5 In accordance with the Act the appropriate advice of a Royal Institution of Chartered Surveyor on the method and terms of the proposed lease was procured from the Valuation Office Agency to ascertain a market rental valuation of the land. It is the opinion of the surveyor that the land in question has a market rental value of £13,400 per annum and, taking into account the tenant's repairing liability in the proposed lease, that the value of the lease is £1 (one pound).

2.6 On 19th December 2023 the Council advertised the intention to grant a lease to ECPSL on site and in the local newspapers seeking representations to be made in writing by 22 January 2024. No representations have been made for Trustees to consider.

2.7 If the Council acting as Trustees confirm their agreement to this proposal, a further application will also need to be made to the Charity Commission under section 105 of the Charity Act 2011 seeking their consent to grant the lease on the terms agreed.

2.8 The Council has already granted ECPSL a Tenancy at Will of the land and buildings in question and it continues to be operated by the Company for sporting purposes. The Company has strengthened its Board, with its directors representing the wider community, including two directors from rugby; two from boxing; and one from the local community. This structure will ensure that the objects of the Charity are met and that the use of the property is not sport specific. We have been advised that this is a requirement of the Charity Commission if they are to approve the request to enter into a lease with ECPSL.

3. Options for Recommendation

Two options are suggested for consideration: -

3.1 Option 1 (preferred option)

The Council as Charitable Trustees decide that they are satisfied, having considered the surveyor's report, a copy of which is attached at Appendix 2, that the terms of the proposed disposition are the best that can reasonably be obtained for the Charity and agrees the

principle of the proposed lease of the area of land and buildings shown edged red on the plan attached to Appendix 1 for a term of thirty-five years subject to:

- i) ECPSL paying a one-off premium of £1.00.
- ii) Successfully obtaining the consent of the Charity Commission to the lease, which must be obtained prior to the lease being legally completed.

Option 2

3.2 The Council as Charitable Trustees do not agree to the lease of the site to ECPSL and seeks to terminate the current Tenancy at Will granted to the ECPSL, with the subject property returning to the management of Blaenau Gwent County Borough Council acting as Trustees.

4. Evidence of how this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan

For the purposes of this report, the Council is not acting in its “normal” role as the local authority for the area. It is acting in its role as the Trustee which requires all decisions to be in the best interests of the charity and its given role. That said, the Corporate Plan is in many ways aligned to the same outcomes and for that reason, the documents that guide the Councils business are relevant to the issue facing Members.

The proposals within this report support the achievement of the priorities contained within the Corporate Plan 2022-2027, including:

- To respond to the nature and climate crisis and enable connected communities.
- An ambitious and innovative Council delivering quality services at the right time and in the right place.
- Empowering and supporting communities to be safe, independent and resilient

The proposal aligns with the Gwent Wellbeing Plan through the protection and enhancement of the natural environment and with the Marmot Principle to create and develop healthy and sustainable places and communities. In particular it encourages residents to take more responsibility for managing their own health and wellbeing.

5. Implications Against Each Option

5.1 *Impact on Budget (short and long term impact)*

Option 1 The transfer would relieve the Council, in their capacity as Trustees, of the maintenance and running costs of maintaining the Park, whilst supporting the objects of the Charity. More importantly, it would empower ECPSL to deliver the instruments and aims of the Charity.

The 35-year lease of the land will provide ECPSL with the necessary long term security of tenure to allow them to seek external funding to operate, maintain, improve, and develop the facilities for use by the local community.

Option 2 If the Council were to retain responsibility of delivering the aims of the Charity, this raises the question of whether BGCBC is the better alternative to a bespoke organisation that exists with the sole responsibility of delivering the leisure activities at the site. A budget would need to be identified to support the day to day management of the sports facilities, the running costs, and the backlog maintenance.

5.2 Risk including Mitigating Actions

Option 1 Any objections and challenges to the lease of the land would need to be considered by the Council as Charitable Trustees and by the Charity Commissioners in seeking an Order to permit the lease. Having advertised the intention to grant a lease, to date no representations have been made.

Option 2 If the approval for the lease is not obtained, ECPSL will not have the security they require to effectively manage the sports and recreation facility and will have limited opportunity to apply for grant funding to improve the facilities as funders usually require an interest in a property of at least 21 years. The Council acting as Trustees may consider entering into a management agreement with the company to run the facilities, but this will not give them any security of tenure and the ability to apply for grant funding.

5.3 Legal

The Council's Property Solicitor has procured external legal advice to consider the implications of the Council as Charitable Trustees and land ownership and has received detailed advice around any potential Charity disposal.

Should the Council acting as Trustees be minded agreeing the principal of the lease then the regulations around Charitable Disposals will need to be followed, these are broadly set out at Option 1.

5.4 Human Resources

Option 1 - There will be staff time in dealing with the application, Charity implications, negotiating terms and dealing with the agreements if approved. Should this option proceed, given the specialist nature of the proposed use, external legal support is likely to be required given its complexity.

Option 2 – The Council, acting as Trustee, would need to allocate resources to support the day to day management of the sports facilities; grounds maintenance; and in the management of the maintenance and repair obligations.

5.5 Health and Safety

N/A

6. Supporting Evidence

The proposed area has provided a base for community use for many years and this proposal will allow those uses to continue.

6.1 Performance Information and Data

N/A

6.2 Expected outcome for the public.

Option 1 Provides continued use and community benefit of sports grounds and facilities for the local community in accordance with the objects of the Charity.

Option 2 Uncertain future use owing to the need to invest in the property.

6.3 Involvement (consultation, engagement, participation)

The proposals to lease the site has been advertised in accordance with the Charities Act 2011, any representations around the proposed transfer have been considered at 2.6 above. Notices have been placed on site and local newspapers to ensure as many people as possible in the beneficial area have had the opportunity to see the notice.

6.4 Thinking for the Long term (forward planning)

The preferred proposal supports elements of the Council's Corporate Plan and the Wellbeing Plan. ECPSL will seek to secure wider use of the facilities by individuals and other sporting organisations which is demonstrated in the strengthening of their Board.

6.5 Preventative focus

The proposal will ensure continued community use of the facilities as well as supporting the development of funding bids to widen use for other sport and community use.

6.6 Collaboration / partnership working.

The Company will continue to work with local community to encourage use of the facilities.

6.7 Integration (across service areas)

The facilities will cease to be the responsibility of the Council. Delivery of the post transfer health and safety interventions with the new management of the premises will be undertaken by Officers from the Public Protection Service. Officers within the Technical Services Department will liaise with ECPSL to ensure statutory testing compliance.

6.8 Decarbonisation and Reducing Carbon Emissions

None identified at this stage. The Company is seeking to invest in energy efficient lighting and in the longer term, to invest in new buildings. In the event of option 2 being the preferred

option by the Council as Trustees, then the responsibility for delivering decarbonisation initiatives will rest with BGCBC.

6.9 Integrated Impact Assessment (IIA)

An IAA will be incorporated into a follow up report for consideration by the Council acting as Trustees once the Charity Commission has agreed to the transfer.

7. Monitoring Arrangements

The proposed lease will reserve rights of access for the Council to inspect the property and the Council will continue to work with the Company in developing its expansion plans and to offer support and assistance.

Background Documents /Electronic Links

- Appendix 1 – Plan showing area subject to application
- Appendix 2 – Valuation Report