

Committee: **Cabinet**

Date of meeting: **10<sup>th</sup> April 2024**

Report Subject: **Local Government Act 1972 Proposed Transfer of Further Land to Abertillery Bluebirds**

Portfolio Holder: **Cllr Helen Cunningham, Deputy Leader / Cabinet Member for Place & Environment**

Report Submitted by: **Ellie Fry, Corporate Director for Regeneration and Community Services**

Reporting Pathway								
Directorate Management Team	Corporate Leadership Team	Portfolio Holder / Chair	Governance Audit Committee	Democratic Services Committee	Scrutiny Committee	Cabinet	Council	Corp. Asset Management Working Group
27.02.2024	29.03.24	22.03.24				10.04.24		18/7/23

1. **Purpose of the Report/ Update**

1.1 To return this report to Cabinet following presentation of the original report on 4<sup>th</sup> October 2023 which resolved: -

1.2 RESOLVED that the report be accepted and, subject to conditions being in place to permit continued public access, a lease be granted to Abertillery Bluebirds in respect of the sports field at Windsor Road to facilitate use by junior members of the club (Option 1).

1.3 This was modified at the meeting from the original resolution of: -

**Option 1 (Preferred)** To allow Abertillery Bluebirds to take on control of the sports field at Windsor Road to facilitate use by junior members of the club.

1.4 Officers have spoken to both representatives of Abertillery Bluebirds and sought advice from the Council's Solicitor to see how a lease to allow continued public access could be granted and if this would be acceptable to the football club.

1.5 The Council's Solicitor advised: -

- As we are granting exclusive use it would be difficult to envisage any wording which would suit.
- Even if there were a form of words which would suit it would be very difficult to enforce.

1.6 The Club had also indicated they would be reluctant to accept any guaranteed public access as this would mean them effectively maintaining land to which the public had continued access. They have indicated that at this stage there is no intention to restrict unofficial public access but would need to keep this under review moving forward.

- 1.7 The Club have also indicated that they feel the pitch has not been open access like parks are, but was available for public use if the facility was rented. This would continue in the same way it does at Cwm Nat- y Groes.
- 1.8 This was something echoed by the Team Manager – Street Scene who confirmed it had always been a fenced/ lettable field and not promoted as public open space. Although the demise of Six Bells Junior Football meant its use had declined as a formal sports facility.
- 1.9 Cabinet is therefore asked to re-consider the report and to approve or decline the transfer of a sports pitch at Windsor Road, Six Bells for use by the junior section of Abertillery Bluebirds. The extent of the property is shown edged red on the plan attached as Appendix 1.

## 2. **Scope and Background**

- 2.1 In July 2019, following completion of the Community Asset Transfer process, Abertillery Bluebirds signed a 50-year lease for the football facilities at Cwm Nant-y-Groes. The Club have successfully run the facilities since then and recently gained promotion to the Cymru South Division.
- 2.2 The club has increased their junior section and are finding it difficult to accommodate all the use on the current pitch. They have enquired about taking on the pitch at Windsor Road.
- 2.3 As the club had already applied for and shown they can run a facility they have not been asked to complete a full Community Asset Transfer (CAT) application as it was expected that the Windsor Road pitch would be added to their existing lease. However, as the land at Cwm Nant-y Groes was dedicated under Fields in Trust should the transfer proceed then the Council's Solicitor feels that the issue of a new lease to run to the same term as the existing would be the simplest way forward.
- 2.4 The Windsor Road pitch did not have a primary home user when the sports facilities were all transferred in 2018/2019 and as such was not requested as a transfer by any club. As such it was not advertised as a loss of public open space under Section 123 of the Local Government Act 1972 and before the proposal to include the land within the Bluebirds Lease can move forward it has been necessary to advertise the land under the Act.
- 2.5 This was done via adverts in the local paper -The Gwent Gazette – 13<sup>th</sup> and 20<sup>th</sup> April 2023 with any objections to the proposal to be made to the Council by the 27<sup>th</sup> of April 2023.
- 2.6 Site notices were also erected during the same time- period confirming that plans of the proposed area could be viewed at the General Offices.
- 2.7 One letter concerning the proposal has been received raising concern at the loss of public access to the area. The author confirmed that if the transfer allows the same use of public access to the land as now, then they

would have a minor objection and if it is anything less, then they would have a total objection to the transfer.

- 2.8 The land lies within the settlement boundary of Six Bells and is included in the open space assessment and identified as a park. This means that policy DM13 Protection of Open Space is triggered. The policy states:

*Development proposals which affect existing open space will be permitted where it can be demonstrated that:*

- a. The site has no significant amenity, nature conservation or recreational value; and*
- b. There is a surplus of such facilities in the locality; or*
- c. The loss can be replaced with an equivalent or greater provision in the immediate locality; or*
- d. The development enhances an existing facility.*

- 2.9 There are no proposals by the club to develop the site but the club have indicated that they intend to try and invest in the facility to improve the pitch and potentially to provide storage/ changing facilities.
- 2.10 They have confirmed that at this stage they do not intend to restrict public access but would not wish to be restricted on proposals moving forward.
- 2.11 The site is designated as a Dog Exclusion Area under the Council Order PSPO – DC – 013 and is completely fenced albeit with access gates which currently allow entry to the site.
- 2.12 Should the Council be minded to dispose of the property at an undervalue, it will need to comply with the Local Government Act 1972, General Disposal Consent (Wales) 2003 – Disposal of Land in Wales for Less than Best Consideration, which came into effect on 31st December 2003 and removes the requirement for Authorities to seek specific consent for any disposal and undervalue where the Authority considers that the disposal is in the interest of the economic, social or environmental wellbeing of the whole or part of its area, or any persons resident or present in the area and the undervalue is £2,000,000.00 Million Pounds (two million pounds) or less.
- 2.13 As the proposed long-term lease is more than 7 years, the Council will need to comply with these requirements. In this case the market value of the site being certified by a qualified valuer in accordance with the Royal Institution of Chartered Surveyors – professional standards, who has confirmed that given the restrictions on the use of the land and the restrictions which will be attached to the proposed lease there is no value to the property other than a nominal £1.
- 2.14 The Council needs to consider any issues under the UK Subsidy Control Act 2022 which replaces previous advice on European State Aid Given the market value of the site it is not felt this is relevant in this case.

### 3. **Options for Recommendation**

3.1 That the Cabinet consider the following options:

3.2 **Option 1 (Preferred)** To allow Abertillery Bluebirds to take on control of the sports field at Windsor Road to facilitate use by junior members of the club.

3.3 **Option 2** To retain the site and not transfer responsibility to Abertillery Bluebirds.

3.4 Consultation took place with local members, Cabinet Member and Town Council and no adverse comments were received.

3.5 Consultation also took place with the Council's Community Asset Transfer Group and no comments were received.

3.6 Consultation with CAMWG (Corporate Asset Management Working group) took place and the proposed transfer was supported by all those who responded.

3.7 Divisional Leadership Team discussed the report at their meeting of the 8<sup>th</sup> August 2023 and supported the report and option 1.

3.8 The public were given the opportunity to comment via the Local Government Act 1972 as detailed in section 2 above. There has been one objection which has resulted in this report being presented to Cabinet.

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

4.1 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

### 5. **Implications Against Each Option**

#### 5.1 ***Impact on Budget (short- and long-term impact)*** **Option 1**

5.1.1 The impact will remove the maintenance burden for the site from the Environment department but this will be in the region of £1500 p.a. based on the frequency of cutting the pitch and surrounding area.

5.1.2 There could also be potential income for the Council should the club decide to utilise the Council for ongoing grounds maintenance although for their nearby site they utilise non – Council contractors for maintenance.

5.1.3 **Option 2**  
Council will continue to maintain the site.

## 5.2 ***Risk including Mitigating Actions***

5.2.1 **Option 1**  
There are no real risks associated with the transfer as Council will still own the site and any proposals for the site would be limited via the lease and normal land related permissions – planning.

5.2.2 **Option 2**  
No risk but continued maintenance cost when site is not being utilised as a sports pitch.

## 5.3 ***Legal***

5.3.1 **Option 1**  
The Council will need to bear the legal costs of entering an agreement with the club.

5.3.2 **Option 2**  
No costs over and above the cost of advertising under the Local Government Act 1972 which have already been incurred.

5.3 ***Human Resources***  
Staff time in dealing with the proposal.

## 5.4 ***Health and Safety***

5.4.1 **Option 1** – continued responsibility for fence line and gates.

5.4.2 **Option 2** – responsibility for whole site

## 6. **Supporting Evidence**

6.1 The Council resolved to transfer all sports facilities to users in 2018/19 and whilst this pitch did not have an identified main user the same principles relating to any transfer would be the same as back then.

The success of the club in increasing numbers which means they now need an extra facility point to the success of the original transfer.

6.2 ***Expected outcome for the public.***  
Restoration of site as a formal sports pitch and increased opportunities for youngsters to participate in football.

6.3 ***Involvement (consultation, engagement, participation)***  
Detailed at section 3 above.

- 6.4 ***Thinking for the Long term (forward planning)***  
The proposal supports elements of the Council's Corporate Plan which sets out long term intentions for the Borough.
- 6.5 ***Preventative focus***  
The proposal will reinstate use as a pitch and training facility and mitigate against deterioration of the site should grounds maintenance funding be reduced.
- 6.6 ***Collaboration / partnership working.***  
None identified.
- 6.7 ***Integration (across service areas)***  
Not applicable
- 6.8 ***Decarbonisation and Reducing Carbon Emissions***  
Limited reduction in Council's carbon emissions if not maintaining the area.
- 6.9 ***Integrated Impact Assessment (IIA)***  
Not applicable
7. **Monitoring Arrangements**
- 7.1 No formal monitoring but contact will be maintained with the club periodically to assess how things are going and if there are any issues with the site
- Background Documents /Electronic Links**
- Appendix 1 –Windsor Road Field Plan