

Report



Cabinet Member for Resources and Assets Cabinet Member for Culture and Leisure

Part 1

Date: 22 March 2022

Subject Sub lease of Caerleon Recreation Fields

Purpose To seek approval from the Cabinet Member for Assets and Cabinet Member for Culture and Leisure for the disposal of part of the Caerleon Recreation Fields by way of lease for use by Caerleon AFC.

Author Property Manager & Team Manager (Parks & Recreation)

Ward Caerleon

Summary Caerleon Recreation Fields are leased to Newport City Council by way of a long lease from Caerleon Urban District Council (CUDC) granted by Charles Williams Trust who have agreed consent for a sub lease to be granted to the Caerleon AFC to allow them to seek grant funding and construct a new football spectator stand to replace the current one on site.

Proposal Agree to sub lease allowing Caerleon AFC to construct a new stand on the pitch edge

Action by Head of Regeneration, Investment & Housing, Head of City Services, Head of Law and Standards

Timetable Immediate

This report was prepared after consultation with:

- Head of Regeneration, Investment & Housing
- Head of Law & Standards
- Head of Finance
- Head of People and Business Change
- Property Manager
- Head of Asset Management & Valuation, Newport Norse
- Team Manager (Parks & Recreation)

Signed

Background

Caerleon Recreation Fields are managed by the Newport City Council and are used by the public all year round. Caerleon AFC currently use one football pitch and one stand and have done so for some years.

The Council own the leasehold interest in the land for a term of 999 years from 25 March 1922. The lease is from Caerleon Urban District Council which was abolished following local government reorganisation in 1974 and was succeeded by Newport City Council. The Charles Williams Trust have registered their interest in the land and therefore for the Council to sublet the land they must have the prior written consent of the Charles Williams Trust. All rental income is payable to the Charles Williams Trust.

Caerleon AFC want to construct a new football spectator stand to replace the existing one. In order for them to secure grant funding from Sport Wales, the club require a long lease from the Council to demonstrate a long term commitment in tenure through a lease agreement. The Council are agreeable to offering a lease for a 10 year term but this would be subject to the consent of the Charles Williams Trust. There is currently no formal agreement detailing that the sports club is responsible for the maintenance and upkeep of the spectators stand, therefore, in the event of an accident or the demise of the structure, the liability would sit with Newport City Council.

The Charles William Trust has given approval on the basis of a ten year term with a rent review on the fifth anniversary of the term. No costs for construction or maintenance would be borne by the Council as these would be the responsibility of the club. All liability for the new stand would be the responsibility with Caerleon AFC.

Heads of terms have been prepared and will be offered to the club for consideration. The Charles William Trust will need to be informed of the final details of the sub lease when agreed.

Under the terms of the lease with the Charles Williams Trust, the recreation fields must remain available for use by the public so the lease will only be for the stand and a small area surrounding the stand site. Use of the rest of the fields will be unaffected allowing City Services to continue to generate income throughout the year and allow the fields to be used by the public allowing them to remain active.

Whilst we are mindful of the need to ensure that the fields are used as a public recreation ground and are available for use by the people of Caerleon, we also need to support our local sporting clubs. The proposed lease of part of the site will allow the club to provide new spectator facilities as well as retaining access for the local community.

There are no staffing issues to consider.

Financial Summary (Capital and Revenue)

The current rent paid to Charles William Trust is £35.00 per annum. The proposed rent on the sub lease is £365.00. The Trust have asked if the Council would be prepared to share the funds they receive as they considerably more than the ongoing rent for the land as a whole. However this is not something we are prepared to share on the basis that the money received is used by City Services to offset the operational and management costs of the playing fields

	Year 1 (Current) £	Year 2 £	Year 3 £	Ongoing £	Notes including budgets heads affected
Costs	365.00	365.00	365.00	365.00	Rent review in the fifth year to RPI, notional uplift expected.
(Income) Net Costs (Savings)	N/A	N/A	N/A	N/A	
Net Impact on Budget	365.00	365.00	365.00	365.00	

Risks

If the Council do not agree terms with the club, then the sub lease will not proceed and the club will not be able to access funding to provide a new stand. However, the existing condition of the stand may worsen further, if not replaced, increasing risk of injury. There are is no funding set aside to cover the cost of any repairs to the stand.

The recreation fields will remain in use and there will be no changes to the lease with CUDC.

Risk Title / Description	Risk Impact score of Risk if it occurs* (H/M/L)	Risk Probability of risk occurring (H/M/L)	Risk Mitigation Action(s) What is the Council doing or what has it done to avoid the risk or reduce its effect?	Risk Owner Officer(s) responsible for dealing with the risk?
Deterioration of stand's condition if it is not replaced, with liability sitting with the Council	M	L	This report seeks to reduce the risk of this occurring by granting a new lease to Caerleon AFC which would allow the club to seek grant funding to replace the stand.	Head of City Services/Newport Norse
Caerleon AFC not maintaining the new stand	M	L	The terms of the lease will confirm that responsibility for maintenance and liability of the stand will sit with Caerleon AFC as leaseholder.	Newport Norse/Head of Law & Standards
Charles William Trust not agreeing to sub lease	M	L	Discussions have already been held with CWT and in principle agreement secured.	Newport Norse/Head of City Services

* Taking account of proposed mitigation measures

Links to Council Policies and Priorities

This proposal meets the following commitments and well-being objectives of the council as specified in the Corporate Plan 2017 – 2022

1. To build cohesive and sustainable communities – the recreation fields are a community facility, by allowing a ten year lease the club can invest in the stand and facilities that they offer. Cohesive communities are those which are able to meet and support each other. The fields and stand will continue to be a focal point for local people to utilise the pitch facilities, undertake exercise and such like while allowing the club to use the stand during the season.
2. A Healthier Wales – the recreation fields will continue to be used by local residents for their own activities and by the club for their training and games.

Options Available and considered

1. Agree a sub-lease with Caerleon AFC for the area required to accommodate a new spectator stand, subject to heads of terms being agreed and Charles Williams Trust confirming acceptance
2. Take no action and not proceed with the sub lease. Playing Fields and existing stand remain in use as before.

Preferred Option and Why

1. Agree a sub-lease with Caerleon AFC for the area required to accommodate a new spectator stand, subject to heads of terms being agreed and Charles Williams Trust confirming acceptance

The existing stand is in need of replacement and Caerleon AFC have the ability to obtain grant funding for the replacement. Liability for maintenance and use will pass from the Council to Caerleon AFC and there will be a small increase in income which will be used to offset existing costs of maintenance of the site. There will be no change to use or access of the playing fields.

Comments of Chief Financial Officer

The technical accountancy team has looked at what is being proposed and can't conclude any significant balance sheet or capital consequence from requesting approval from the Charity to create a sub lease. However appreciating the potential long term nature of such a facility built on the land, the advice provided would also conclude a sense that any such sub lease imposes 100% repairing & maintenance obligation for the new facility upon the sub lessee and indemnifies the Council from any cost in its provision or remediation costs to the land at the cessation of that lease.

Comments of Monitoring Officer

The proposed action is in accordance with the Council's statutory powers to re-appropriate and dispose of land in accordance with sections 122 and 123 of the Local Government Act 1972. However, because the Caerleon Playing Fields are held under the terms of a long lease, then consent must be obtained from the Charles Williams Trust for the grant of any sub-lease of the site of the football stand to Caerleon AFC. The grant of a long sub-lease of 10 years will constitute a "disposal" of the land for the purposes of section 123, because Caerleon AFC will be granted exclusive occupation and use of the land for the term of their lease. Therefore, in order to dispose of this part of the site, the Council will need to declare the land surplus to requirements in terms of its operational use, re-appropriate the land from public leisure use under section 122 and agree to dispose of the land to the Football Club for the development of their new stand. Any agreement for lease would need to be conditional upon all necessary consents being obtained for the construction of the new stand, including planning permission if required. There may also be a requirement to grant additional access rights to the stand across the retained Council land, both during the construction period and during the term of the lease. The lease should require Caerleon AFC to be responsible for the construction of the stand and to indemnify the Council against all liabilities in relation to its future maintenance and use. The Council has a duty under section 123(2) of the 1972 Act to secure the best price reasonably obtainable for the land. Therefore, an appropriate ground rent should be charged to reflect the responsibilities being assumed by the Football Club under the terms of the lease. The re-appropriation of the land for disposal would mean that any rental income would generally accrue to the corporate asset management budget and, therefore, if the rental is to be ring-fenced for management costs in relation to the playing fields, then this will need to be specifically agreed by the Cabinet Members. If any additional land is being transferred to construct the new stand, then there may be a requirement to treat this as a disposal of a small area of public "open space". If so, then before this can be re-appropriated, public notice of the proposals would need to be advertised in the newspaper for two consecutive weeks in accordance with section 122 (2A) of the 1972 Act and any objections would need to be considered before the decision can be confirmed. In addition, two weeks public notice would also have to be given of the intention to dispose of the additional land, in accordance with section 123(2A) of the Act and any objections to the lease would also have to be considered first. It is assumed that the additional land would not be classified as a "playing field" for the purposes of the Playing Fields (Community Involvement in Disposal Decisions) (Wales) Measure 2010. If it did come within the definition of a "pitch" for the purposes of the Measure, then a more prescribed process of community consultation and engagement would have to be undertaken, instead of the public notice provisions in section 122(2A). In both cases, there will need to be an assessment of the impact of the

disposal of the land in terms of play provision in accordance with the Children & Families (Wales) Measure. However, as this is just a small area of land in addition to the site of the existing stand, and the playing fields will be retained for general public use, then the lease of the stand site should not have any detrimental impact in terms of the duty to provide play areas, the Council's public sector equality duty or its socio-economic duty. The construction of a new spectator stand will improve the well-being of the local community and, as such, is consistent with the Council's strategic well-being and corporate plan objectives

Comments of Head of People and Business Change

This proposal to sub lease part of the Caerleon Recreation Fields by way of lease to Caerleon AFC to allow them to seek grant funding and construct a new football spectator stand to replace the current one on site will continue to provide well-being long-term benefits for the local community. The Well-being of Future Generations Act sets out a duty for us as a council to consider the sustainable development principle and seven well-being goals contained within the Act. The report writer has fully evidenced this in the report and the associated fairness and equality impact assessment.

Scrutiny Committees

None

Fairness and Equality Impact Assessment:

Caerleon Recreation Fields are managed by the Newport City Council and are used the public all year round. Caerleon AFC currently use one football pitch and one stand and have done so for some years.

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Caerleon AFC have approached Newport City Council about constructing a new football spectator stand to replace the existing one. In order for them to secure grant funding from Sport Wales, the club require a long lease from the Council to demonstrate a long term commitment in tenure through a lease agreement. The Council are agreeable to offering a lease for a 10 year term but this would be subject to the consent of the Charles Williams Trust. There has never been any formal agreement detailing that the sports club is responsible for the maintenance and upkeep of the spectators stand, therefore, in the event of an accident or the demise of the structure, the liability would sit with Newport City Council.

The complete FEIA can be found here

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. The proposed sub lease is not expected to increase crime and disorder in the area.

Background Papers

None

Dated: 22 March 2022

