

**REPORT FROM: CORPORATE DIRECTOR**

**TO: POLICY and RESOURCES COMMITTEE**

**DATE: 26<sup>th</sup> JUNE 2018**

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## **HOLT HOUSE COLNE- COMMUNITY ASSET TRANSFER REQUESTS**

### **PURPOSE OF REPORT:**

To consider community asset transfers to Colne FC and Colne and Nelson RUFC.

### **RECOMMENDATIONS**

- (1) That Colne FC be offered a 125 year lease including additional land and that the Corporate Director be authorised to agree the terms and a report on progress be submitted to the December meeting of the Committee.
- (2) That further discussions be held with Colne and Nelson Rugby Club if it should indicate that it wishes to pursue the possibility of a community asset transfer to it.

### **REASON FOR RECOMMENDATIONS**

To support the proposals and ambitions of the two clubs taking into account the wider community benefit and interest.

1. The Council has received a request from Colne FC for the transfer to it of the freehold of the land at Holt House of which it currently has a lease of 99 years. This is related to its proposed development in five phases of the stadium with increased capacity, the provision of additional parking and an improved access off Birtwistle Avenue as shown on the attached plans.
2. The request includes taking additional land which would involve the loss of a youth 11 a side pitch. This is in poor condition and badly drained. The loss could be mitigated by the provision of a 3G pitch which the Council is exploring with the Lancashire Football Association and which would include Colne FC as a partner.
3. Further land may also need to be included for the new access off Birtwistle Avenue.
4. The Executive previously considered a similar request in March 2013. Whilst amenable to the idea of asset transfers it took the view that these should be by way of long leases rather

than freehold disposal. The argument is that this makes more sense where the land is part of a larger landholding and gives the Council more protection against unwanted disposal. A lease can impose covenants and restrictions for the benefit of the Council and adjoining land which are easier to enforce than similar provisions in freehold transfers. For most funding applications a long lease is sufficient.

5. It therefore authorised further negotiations with the Football Club which resulted in the grant of a 99 year lease from February 2016.
6. The latest request was considered by the Executive on 15<sup>th</sup> March when it was resolved that a meeting be arranged with representatives from the Club and also Colne and Nelson Rugby Club, representatives from the three political groups, relevant officers and partners associated with the clubs who were involved in their development plans for the future. That meeting took place on 14<sup>th</sup> June.
7. At the meeting Council officers explained the reluctance to transfer the freehold but offered to extend the lease to 125 years. Colne FC is however still pressing for the transfer of the freehold arguing as follows:
8. *"I am still of the opinion that a full asset transfer/land transfer would be the preferred option for Colne Football Club moving forward. I appreciate the offer of a 125-year lease and understand in principle this is in part an asset transfer however this still leaves the club open to a number of risks:*
  - ☐ *A change in Council policy and hierarchy could lead to unseen issues surrounding terms of the lease with regards to general renovation and upkeep*
  - ☐ *The club, after investing a large sum of money in developing the asset could in theory be open to a bidding war for the lease upon renewal plus an increase in the ground rent*
  - ☐ *The council could also choose to run down the lease effectively leaving the club homeless.*
9. *I understand these are variables that cannot be foreseen at this moment in time however, my aim is to safeguard the club's short and long term future. I am looking at providing a sporting venue for generations to come and that by definition is past the 99 or 125-year lease options.*
10. *The only negative I can see from the Council's perspective is the sale of the land for potential domestic development but I believe a caveat stating that the asset would be transferred back to the council if the land is used for anything other than Colne FC and sporting facilities would negate this concern."*
11. For the Committee's information under the current lease the Club does not in fact pay a ground rent but an annual peppercorn. Also they would have Landlord and Tenant Act protection so that they could renew the lease on the same terms and conditions.
12. The proposals and ambitions of the club are to be welcomed and the Council will wish to facilitate them with an asset transfer. It remains however the firm view of Council officers that a long lease of 99 or 125 years is the appropriate form of transfer, giving ample security for obtaining funding whilst protecting the wider Council interest for the future.
13. If notwithstanding this advice the Committee is minded to transfer the freehold then it is suggested that the transfer contain an absolute restrictive covenant as to the use of the land for sports purposes and also a pre-emption clause in favour of the Council if the Club wished to dispose of the freehold, grant a long lease or charge the land to secure a loan.

14. Also the Club is currently an unincorporated organisation rather than a legal entity. The 99 year lease is held by three trustees. At the meeting on 14<sup>th</sup> June it indicated that it may move to some form of corporate status. Whether this happens or not it is suggested that the Council explores the possibility of it having some role within the Club e.g. trusteeship which would give it a direct say on the Club's future intentions for the land. This would give it more control in the interests of the wider community. Further negotiation with the Club would be required on this and specialist legal advice may be needed.
15. Finally, at the meeting on 14<sup>th</sup> June Colne and Nelson Rugby Club's representative indicated that they were not yet in a position to come to a view as to a community asset transfer of their landholding (pavilion and pitches) which is currently on a 28 year lease from July 2013 at a current rent of £1,800. They will await developments as regards Colne FC's proposals and may return to the question in the future.

## **IMPLICATIONS**

<b>Policy:</b>	The Council's policy is to look favourably on requests for community asset transfers.
<b>Financial:</b>	<p>Any future lease would be at a peppercorn rent. The current market value of Colne FC's lease based on the present use and assuming vacant possession (EUV) is estimated to be £60,300. The EUV of the additional land sought (11 a side football pitch and provision for access) is £33,100.</p> <p>The EUV of Colne and Nelson Rugby Club's lease (pavilion and three pitches) is £285,225.</p>
<b>Legal:</b>	Fresh legal documentation would need to be drawn up and agreed whether a further lease or freehold transfer is agreed. Specialist advice may be required on the Council having a trustee or similar role within Colne FC.
<b>Risk Management:</b>	None arising from the report.
<b>Health and Safety:</b>	None arising from the report.
<b>Sustainability:</b>	None arising from the report.
<b>Community Safety:</b>	None arising from the report.
<b>Equality and Diversity:</b>	None arising from the report.

## **APPENDIX**

Colne FC redevelopment plans