

WANDSWORTH BOROUGH COUNCILCOMMUNITY SERVICES AND OPEN SPACES OVERVIEW AND SCRUTINY COMMITTEE  
– 5TH FEBRUARY 2019EXECUTIVE – 11TH FEBRUARY 2019

Report by the Director of Environment and Community Services on the management, maintenance and the redevelopment of the pavilion and playing fields at Roehampton Playing Fields, Dover House Road, SW15 (West Putney)

SUMMARY

This report outlines the level and sources of objections received to the proposed disposal following statutory notice for the disposal of the land as open space (by means of a 30-year lease) for the management, maintenance and the redevelopment of the pavilion and playing fields at Roehampton Playing Fields (RPF), SW15 to TFC Leisure Limited (TFC).

The report sets out a number of options as to how the project can proceed and the risks associated with each option.

In September 2017, the Executive approved a recommendation (Paper No.17-285) subject to the outcome of the necessary statutory processes, to award a concession contract for the management, maintenance of RPF and the redevelopment of the existing pavilion at the site to TFC.

At its meeting in September 2017, the Executive authorised the publication of a Notice advertising the Council's intention to dispose of the facilities by means of a 30- year lease in accordance with the provisions of Section 123(2A) Local Government Act 1972.

Considering the objections received (paragraphs 22 to 47) following the disposal process, members are also asked to review the options presented (paragraph 50) and approve Option (b) to review the current approach and restart the process. The level and extent of objections to disposal suggests that the current approach i.e. disposal by means of a 30-year lease will never be supported. The new approach will involve a short-term management arrangement and will necessitate more community and social aspects to the tender specification and incorporate selection criteria for the inclusion of community groups to tender for the opportunity. To aid this process, and to fully understand what the community would like to see in the operation at the site, it is recommended that a full consultation is undertaken prior to marketing the opportunity. It should be appreciated that if Option (b) is the approved action, it will involve the termination of the current procurement process.

The Director of Resources comments that Paper No.17-285 noted the proposal to dispose of land at Roehampton Playing Fields by way of a lease, and to award a concession contract for the management and maintenance of the Playing Fields. The proposal identified that if the scheme went ahead, projected reductions in grounds maintenance

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costs of £50,000 per annum could be achieved and would generate an annual income stream for the Council's General Fund Revenue Budget. Budget adjustments as identified in the proposal have not been made and the site can continue to operate within existing approved General Fund Revenue Budgets until a decision over the site's future is made.

### **GLOSSARY**

DHL	Dover House Lions
OSC	Community Services and Open Spaces Overview and Scrutiny Committee
RPF	Roehampton Playing Fields
SLLP	South London Legal Partnership
TFC	TFC Leisure Limited
UR	University of Roehampton

### **RECOMMENDATIONS**

1. The Community Services and Open Spaces Overview and Scrutiny Committee (OSC) are recommended to support the recommendations to the Executive in paragraph 3.
2. If the OSC approve any views, comments or additional recommendations on this report these will be submitted to the Executive or the appropriate regulatory and other committees for consideration.
3. The Executive is recommended to:
  - (a) Consider the objections received (paragraph 22 to 47) to the proposed disposal, by means of a lease for the period of 30 years, of the management, maintenance and the redevelopment of the pavilion and playing fields at Roehampton Playing Fields (RPF) (West Putney);
  - (b) Having considered the objections, review the options as presented in paragraph 50; and
  - (c) Authorise the Assistant Director (Property Services), in consultation with the Director of Environment and Community Services, the Head of the SLLP and the Head of Procurement, to agree the terms for the future procurement in line with Option (b); to review the current procurement and restart the process. This approach will be on a short-term management arrangement, will necessitate more community and social aspects to the tender specification and incorporate selection criteria for the inclusion of community groups to tender for the opportunity. To aid this process, and to fully understand what the community would like to see operating at the site, it is recommended that a full consultation is undertaken prior to marketing the opportunity.

### **BACKGROUND**

4. RPF, shown in [Appendix 1](#), were once owned by the former Inner London Education Authority. They are used by schools, local clubs and members of the public. They were transferred to the Council by the Education (Inner London Education Authority) (Property Transfer) Order 1990 (SI 1990/124), as amended. There has been an aspiration to find an alternative delivery model for RPF for a considerable period.

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5. In May 2005, the Executive approved a report (Paper No. 05-345) proposing the replacement of the pavilion at the site with a two-storey building with changing rooms and a creche, as the existing pavilion was reaching the end of its economic life and becoming increasingly expensive to maintain.
6. In November 2007, following an advertisement inviting expressions of interest, the University of Roehampton (UR) was the only respondent. As required by section 123(2A) of the Local Government Act 1972 an advert notifying the public of the Council's intention to dispose of the site to UR was subsequently published, and at the time no objections were received.
7. In January 2010, the Executive authorised (Paper No. 10-13) for the disposal of the site to UR, subject to any ministerial consent, by way of a long lease, on the basis that this would benefit the public and save the Council the associated maintenance costs of the site. UR's proposal included:
  - (a) New upgraded facilities as approved by the Council, and financed by UR;
  - (b) Obtaining planning permission; and
  - (c) Maintenance and management of the site, to include continued use for local schools and the public for a minimum of 10 years.
8. In June 2010, the Executive and the Finance and Corporate Resources OSC considered the matter again as UR proposed modifications of some of the terms to enable it to have a better chance of obtaining grant funding (Paper No. 10-514). The fundamentals of the proposed transaction were unchanged. The heads of terms were revised accordingly and the Executive authorised officers to finalise the transaction on the revised terms. However, there was then a delay of over three years before any further material progress was made. This was due to a combination of factors encountered by both the Council and the UR.
9. Owing to the lapse of time, in July 2014, the Council re-advertised the 'Intention to Dispose' of public open space in accordance with Section 123 (2A) of the Local Government Act 1972. 115 objection letters were received by the Council. The main thrust of objections received centred on the preservation of continued community use of existing customers beyond the 10-year minimum proposed; and that existing users of the site should be offered the opportunity to bid for managing the site.
10. In September 2014, UR withdrew its offer. The Council decided to start the process afresh and ensure that the objections raised could be addressed in any new tendering exercise.
11. In October 2015, Officers contacted the existing users of RPF advising that the previous negotiations with the UR had become abortive hence the Council was in the process of reconsidering potential improvements of facilities there. As part of this process, the Council sought comments from the existing users of the playing fields on the draft heads of terms for the redevelopment proposal. A key aspect of these fresh proposals was that the preservation and retention of all the then existing users of the facilities at RPF for the entire length of the proposed lease to the successful tenderer.
12. In July 2016, the Executive approved (Paper No. 16-242) a recommendation to seek bids for a concession contract to manage and maintain RPF and to re-provide the

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pavilion. The principal terms of the letting addressed many of the concerns raised in the objections received in August 2014:

- (a) A lease for 30 years;
  - (b) Protection for existing users for the full length of the 30-year lease;
  - (c) For the term of the lease, hire fees for existing grass sports pitches would be at the current rates with annual inflationary increases as approved by the Council; and
  - (d) As part of the proposals therefore, existing users would have the opportunity to bid for the management of the site.
13. In Autumn 2016, the Council openly sought expressions of interest from the market for this concession contract for the management and maintenance of the RPF and redevelopment of the site. As part of this process the Council advertised this opportunity on 20th and 28th October 2016 in the South London Press and on 1st and 15th November 2016 the opportunity was advertised in Leisure Opportunities (a national trade press publication).
14. The procurement exercise was a two-stage process. The Stage 1 process sought information including outline proposals and a site strategy for RPF from potential bidders. The Stage 1 of the procurement process concluded in January 2017, and although the existing user organisations at RPF were individually invited to submit expressions of interest, ultimately none of those organisations chose to submit and only two potential bidders emerged for this concession contract. These were The Wimbledon Club (hockey) and TFC Leisure Limited (TFC). Following the evaluation process, these two bidders were invited to firm up their proposals in the form of a Final Tender - Stage 2.
15. In May 2017, TFC submitted a final Stage 2 tender but The Wimbledon Club withdrew from the Stage 2 process with no known reason(s). Following evaluation of TFC's initial tender a clarification meeting was held relating to some of their proposals. Further to the clarification meeting a letter was issued to TFC on 13th July 2017 requesting final details of their tender submission. A revised submission to the areas queried was received, assessed and accepted by the Council's officers.
16. The tender from TFC met the Council's expectations as outlined below:
- (a) Protecting the use for the existing customers, including the times of use for the duration of the lease;
  - (b) A lease for 30 years representing an income stream to the Council's General Fund Revenue Budget;
  - (c) For the term of the lease, hire fees for existing facilities only, to be aligned with the Council's charges;
  - (d) Saving the Council approximately £50,000 per annum for the grounds maintenance on the site;
  - (e) Generating rental income and improved facilities for the users of the playing fields; and

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- (f) TFC to invest capital resources into improving the site and completing approved works within three years of the contract starting (subject to planning permission), the improvements to include:
- (i) the construction of a new or refurbished pavilion;
  - (ii) the provision of a 3G artificial grass pitch which should achieve support from Sport England for TFC's planning submission;
  - (iii) the provision of artificial lighting;
  - (iv) refurbished tennis / netball courts;
  - (v) the inclusion of a café to be accommodated within the main communal area of the proposed new pavilion to include, children's soft play area and seating area; and
  - (vi) continuity of the changing facilities during the construction of the new pavilion by the provision of a temporary changing/shower/toilet block that provide Sport England recommended standard facilities; to include 6 team changing rooms with showers and officials changing room and a reception.

17. In September 2017, the Executive approved (Paper No. 17-285) subject to the outcome of the necessary statutory processes, to award a concession contract for the management, maintenance of RPF and the redevelopment of the existing pavilion at the site to TFC.

**CURRENT POSITION**

18. At its meeting in September 2017, the Executive also authorised the publication of a Notice advertising the Council's intention to dispose of the facilities by means of a 30-year lease in accordance with the provisions of Section 123(2A) Local Government Act 1972
19. The intention to Dispose Notice was advertised in the Wandsworth Guardian on 9th and 16th November 2017 (Appendix 2), with a four-week period to object ending on 8th December 2017, with an additional paragraph detailing a drop-in session, at RPF, as an opportunity for residents to find out more about the proposals on the evening of 13th November 2017, between 16:00 – 19:00. Additionally, the statutory advertisement was hand delivered to the properties that surround the playing fields and was also e-mailed to all existing user organisations of the playing fields and known interested parties including Dover House Road Residents' Association. The aim of this drop-in session was to give the local community the opportunity to discuss the proposals with officers and TFC, who were in attendance with plans as detailed in committee Paper No. 17-285 appendices 2a, 2b and 3. A frequently asked question sheet was distributed on the night.
20. The drop-in session held on 13th November 2018 was well attended, with 100 people recording attendance on the register. Following this session a designated web page was created to share information on RPF  
[http://www.wandsworth.gov.uk/info/100009/leisure\\_and\\_culture/2299/plans\\_for\\_new\\_investment\\_at\\_roehampton\\_playing\\_fields](http://www.wandsworth.gov.uk/info/100009/leisure_and_culture/2299/plans_for_new_investment_at_roehampton_playing_fields) and a designated mail box was created to receive objections.

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21. On 8th December 2017, the consultation period for representations contained in the disposal notice concluded, and the report notes that the following objections were received:
- (a) 201 objections received various standard and personalised letters as categorised below and in Appendix 3;
  - (b) 90 standard letter objections received from group one Appendix 4;
  - (c) 388 standard letter objections received from Dover House Lions Appendix 5; and
  - (d) 1,289 signatures received via an on-line petition Appendix 6

### **OBJECTIONS**

**Appendix 3: 201 objections received from various standard/personalised letters as categorised and summarised below:**

22. Category One: WBC has a legal duty to maintain as public open space:  
Out of the 201 objections received: 5 referenced this category

Officers Comments: The Council is proposing to lease the site to a third party under the Local Government Act 1972, Section 123 (2A) to continue to provide playing fields for local schools and clubs and the Council will retain the freehold in addition that existing users were to be able to access and use the site at charging rates similar to the other similar Council facilities.

23. Category Two: Commercial Exploitation:  
Out of the 201 objections received: 94 referenced this category

Officers Comments: TFC have given an undertaking to engage with the local community to ensure they deliver facilities appropriate for their needs and wishes, in order to create a sporting and social community hub. TFC has confirmed they will provide opportunities for free and discounted access to facilities for residents and run social sessions for all age groups. All state schools within the borough will be able to access the facilities and coaches at a discounted rate and they will work with the Council, National Governing Bodies and Sport England to deliver initiatives to target key inactive participation groups, previously inactive, 14-25-year olds, female players, ethnic minorities, disability groups and over 60's i.e. walking football. TFC will also introduce a Scholarship Scheme for high achieving juniors to increase their opportunity to access coaching. The improvement plans are subject to planning approval once and if the decision to grant a lease is confirmed. It is also of note that external funding and expertise in operating a sustainable facility is attained at no additional cost to the Council. Therefore, the proposal offered an extended range of activities, with security as to the charging levels for use of the facility.

24. Category Three: Noise and/or anti-social behaviour (litter, arguments, use of drives)  
Out of the 201 objections received: 115 referenced this category

Officers Comments: The improvement plans proposed in the tender will be subject to planning approval. As part of this process due regard will be given to the impact of any changes including wider environmental considerations. The Council's internal services will be consulted on the planning application and will have the opportunity to consider any impacts of a proposed development. A Noise Risk Assessment will need

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to be submitted as part of the planning application. It is proposed that all activity on site will have a curfew of 9pm. The proposed hours of operation would be Weekdays 9am – 9pm and, Weekends 9am to 7pm.

25. Category Four: Traffic and pollution issues.

Out of the 201 objections received: 149 referenced this category. There is a current level of activity and the impacts would be considered as part of a planning application as set out above

Officers Comments: We are aware of the concerns about the possibility of increased parking of which both parties are working on solutions to mitigate this, which will be presented as part of the planning application for the facility improvements to the site.

26. Category Five: Light pollution from floodlights

Out of the 201 objections received: 156 referenced this category

Officers Comments: The proposed improvement plans include provision of a new full size artificial grass pitch including floodlights to meet the aims of the Council's Playing Pitch Strategy as there is a shortage of this type of facility in the borough to meet current demand for training facilities for young people and adults. However, these improvement plans are subject to planning approval as part of a separate process, once and if the decision to grant a lease is confirmed. Also, with the separate planning process, impacts on neighboring residents and biodiversity are expected to be key parts for the material considerations to determine the planning decision.

27. Category Six: Ruin character of conservation area

Out of the 201 objections received: 55 referenced this category

Officers Comments: There is an existing facility that has operated on site since transfer from Education, the Inner London Education Authority. TFC's proposed improvements will require planning permission which will be a separate rigorous process aside from the decision to dispose of the site by way of the grant of a 30-year lease. With the separate planning process, impacts on neighbouring residents and wider environmental and planning considerations are expected to be key parts for the consideration whether to determine the planning decision.

28. Category Seven: Loss of community use (affordability)

Out of the 201 objections received: 30 referenced this category

Officers Comments: Following the last disposal notice in 2014 and feedback from local users and residents to the previous scheme, the Council confirmed that any new lease would protect existing users for the full length of the lease, i.e. 30 years. The proposed improvement plans include provision of a new full size artificial grass pitch including floodlights to meet the aims of the Council's Playing Pitch Strategy as there is a shortage of this type of facility in the borough to meet current demand for training facilities for young people and adults. However, these improvement plans are subject to planning approval a separate process, once and if the decision to grant a lease is confirmed. It is not considered there would be a loss of community use, if anything, the proposed improvements may be an enhancement of service and community use.

29. Category Eight: Destruction of a community

Out of the 201 objections received: 6 referenced this category

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Officers Comments: Currently the site is underused, particularly the tennis courts and given growing demand for sports pitches across the borough the site is important to help increase participation in sport and physical activity particularly for children and young people. The proposals allow the successful bidder to protect existing users whilst making the most of all the facilities throughout the week so that they are used to their potential. The improvements to the facility could lead to enhanced community use and benefits in health and vitality for the local community. It could make a positive contribution.

30. Category Nine: Sale of public space  
Out of the 201 objections received: 2 referenced this category

Officers Comments: The Council is proposing to lease the site to a third party under the Local Government Act 1972, Section 123 (2A) to continue to provide playing fields for local schools and clubs and the Council will retain the freehold. The intention is to enter into an Agreement for the Lease first, then grant a formal Lease following practical completion of TFC's works. The Council will enter into a lease with TFC and will have a level of control within the terms of the lease and the management arrangements. By this arrangement an enhanced service is likely to be provided.

31. Category Ten: There will be a negative effect on wildlife  
Out of the 201 objections received: 9 referenced this category

Officers Comments: TFC's proposed improvements will require planning permission which will be a separate rigorous process aside from the decision to dispose of the site by way of the grant of a 30-year lease. With the separate planning process, impacts on biodiversity and an environmental impact assessment will form part of the planning decision.

32. Category Eleven: Poor financial deal for WBC residents  
Out of the 201 objections received: 3 referenced this category

Officers Comments: Through TFC's proposal the Council achieves economic benefits on revenue and maintenance costs and generating an income stream for the Council over the 30-year lease term. There is also security as to the level of charges being commensurate with the charges at similar Council facilities.

33. Category Twelve: Artificial Grass Pitch (Environmental effect and loss of grass)  
Out of the 201 objections received: 25 referenced this category

Officers Comments: An artificial pitch can take far more use all-year round than grass pitches. The Football Association (The FA) recommend grass pitches are played on between 4 – 10 hours a week subject to drainage where as an artificial grass pitch can take anything between 40 – 60 hours a week usage regularly. An average life span of an artificial grass pitch can be anywhere between 8 – 12 years depending on usage and maintenance and the contractor will be expected to replace the top surface at least twice during the 30-year lease and this has been taken account of within the business plan submitted with the tender along with a sufficient sinking fund. The provision of an artificial pitch will mean community and school uses will be able to continue to use the site even in times of inclement weather when grass sports may be cancelled. The FA currently has an objective of 50% of all junior football being played



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on artificial grass pitches by 2020. The Council's Playing Pitch Strategy adopted in 2014 identified the need for up to four additional artificial grass pitches in the borough to meet existing demand for sports training and matches.

34. Category Thirteen: Lack of consultation.  
Out of the 201 objections received: 12 referenced this category

Officers Comments: A drop-in session was held on 13th November 2017 following the publication of the statutory advertisement of the Council's intention to dispose of Roehampton Playing Fields (by way of a lease) which was published in the Wandsworth Guardian on 9th November 2017, with an additional paragraph detailing the session. Additionally, the statutory advertisement was delivered to the properties that surround the playing fields and was e-mailed to all existing user organisations of the playing fields and known interested parties including Dover House Road Residents' Association. The Council considers it has consulted in an appropriate way.

35. Category Fourteen: Building disruption during the proposed works.  
Out of the 201 objections received: 1 referenced this category

Officers Comments: Through the planning process, impacts on biodiversity and environmental impacts will be assessed and will form part of the planning decision, if there are building works then there is likely to be a construction and environmental management plan to regulate such activities.

36. Category Fifteen: Increased Vermin during the proposed works.  
Out of the 201 objections received: 1 referenced this category

Officers Comments: Refer to the officer comments paragraph 35.

37. Category Sixteen: Existing underused alternative exercise options  
Out of the 201 objections received: 4 referenced this category

Officers Comments: Currently the site is underused, particularly the tennis courts and given growing demand for sports pitches across the borough the site is important to help increase participation in sport and physical activity particularly for children and young people. The proposals allow the successful bidder to protect existing users whilst making the most of all the facilities throughout the week so that they are used to their potential with increased levels of participation

38. Category Seventeen: Unwelcome and should be abandoned  
Out of the 201 objections received: 2 referenced this category

Officers Comments: Refer to the officer comments paragraph 37.

39. Category Eighteen: Due diligence not executed  
Out of the 201 objections received: 2 referenced this category

Officers Comments: On 11th July 2016, the Council's Executive Committee approved the tendering of a new concession contract to redevelop and manage the existing pavilion and playing fields at Dover House Road. (Paper No. 16-242) which included addressing many of the concerns raised in the objections received in August 2014 including; A lease for 30 years; Protection for existing users for the full length of the 30

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year lease; For the term of the lease, hire fees for existing grass sports pitches would be at the current rates with annual inflationary increases as approved by the Council; Re tender the proposals therefore existing users would have the opportunity to bid for the management of the site.

In October 2015 officers contacted the existing users of RPF advising that the previous negotiations with the UR had become abortive hence the Council was in the process of reconsidering potential improvements of facilities there. As part of this process, the Council sought comments from the existing users of the playing fields on the draft heads of terms for the redevelopment proposal. (A key aspect of these fresh proposals was that the preservation and retention of all the existing users of the facilities at Roehampton playing fields for the entire length of the lease.)

In autumn 2016, the Council openly sought expressions of interest from the market for this concession contract for the management and maintenance of the Playing Fields and redevelopment of the site. As part of this process the Council advertised this opportunity on 20th and 28th October 2016 in the South London Press and on 1st and 15th November 2016 the opportunity was advertised in Leisure Opportunities (a national trade press publication).

Following a two-stage tender process, TFC Leisure Limited emerged the preferred bidder for this opportunity.

40. Category Nineteen: WBC to invest and should not allow the site to fall into disrepair. Out of the 201 objections received: 2 referenced this category

Officers Comments: There are limited capital funding opportunities available for the Council, however the site is maintained at an acceptable level meeting all statutory requirements. It is noted that external funding and expertise in operating a sustainable facility is attained through externalising the management at no additional cost to the Council. This is a means to provide enhanced facilities to the citizens.

41. Category Twenty: Draft lease clause enquiry  
Out of the 201 objections received: 1 referenced this category

Officers Comments: Copies of the Agreement for Lease and the Draft Lease were released and made available to view on the assigned information portal for the proposed developments of the playing fields; [www.wandsworth.gov.uk/roehamptonplayingfields](http://www.wandsworth.gov.uk/roehamptonplayingfields). It is noted that TFC's offer for RPF is not dependant on it obtaining planning permission for the floodlighting and the artificial grass pitch

42. Category Twenty-one: Allow Alternative, Residents, community groups DHERA & DHL to present alternative proposals  
Out of the 201 objections received: 140 referenced this category

Officers Comments: Due process was followed as referenced in the officer's comment in paragraph 35. The procurement exercise was a two-stage process. The Stage 1 process sought information including outline proposals and a site strategy for RPF from potential bidders. The Stage 1 of the procurement process concluded in January 2017, and although the existing user organisations at RPF were individually invited to submit expression of interest, ultimately none of those organisations chose to submit

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and only two potential bidders emerged for this concession contract. These were The Wimbledon Club (hockey) and TFC Leisure Limited (TFC).

43. Category Twenty-two: Point of Law – Contravening the ruling of 28th July 2017 (Muir V WBC)  
Out of the 201 objections received: 1 referenced this category

Officers Comments: This is not a piece of land that has been acquired pursuant to the Open Spaces Act 1906 and the trust mentioned in the Muir case. The Council is having due regard to its status as part of the proposed disposal process.

44. **Appendix 4:** 90 standard letter objections received from group one letter detailed and summarised as follows:

Light Pollution  
Noise Pollution  
Traffic Increase / Toxic Fumes  
Parking issues

Officers Comments: Please refer to previous officer's comments that address these issues.

45. **Appendix 5:** 388 standard letter objections received from Dover House Lions  
Current programmes in place include:

- Weekend – across the whole site, DHL's Youth and Disability Football Club provides football training to more than 150 youngsters
- During summer weekends, across the whole of the fields, community cricket clubs; St James Crocket club with the Furzedown Project and Nadir Cricket Club
- During the week local primary and secondary schools use the fields

Summarised objections as follows:

- Create uncertainty for the future of the DHLs as the grass fields will be too small and inflexible to allow the club to continue to operate;
- With just one school planned to double its size, the green space will be too small and inflexible to allow schools open field team sport, training and summer sports days;
- SW15's youngsters recreation and sporting opportunities being phased out and excluded by TFC's pursuit of commercial gains; and
- Oppose the disposal on the grounds to work collaboratively and constructively with existing users and the Local Community to develop a far better solution which protects current users and preserves the open recreational space for future generations.

Officers Comments: following the last disposal notice in 2014 and feedback from local users and residents to the previous scheme the Council confirmed that any new lease would protect existing users for the full length of the lease, i.e. 30 years. The Council

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will also protect the hire fees and charges for the existing grass sports pitches at the current rate and the successful bidder will only be able to increase them by inflation in line with the Council charges for similar grass sport pitches elsewhere in the borough. In addition, the charges for the proposed new floodlight artificial grass pitch submitted as part of the tendering process are in line with charges for similar Council facilities elsewhere in the borough and will form part of the contract with the successful bidder subject to the statutory process. As part of the terms of the letting the protection of existing customer's use of the facility is included, therefore their current usage will not reduce under the terms of the new proposals.

The only change in the current grass sports pitches is a proposal to replace the existing grass 9v9 junior pitch by a full size 11v11 artificial grass pitch, to enable all year round play to be offered and greater use of the site. This proposal equates to an area of 8,512m<sup>2</sup> out of a total site area of 4.75 hectares. This leaves the rest of the site as grass playing fields and the 5 tennis courts/ 4 netball courts will also be retained. The proposed opening hours of the new site following the improvements will be 9.00am – 9.00pm Monday to Friday and 9.00am to 7.00pm on the weekends. To achieve these hours, floodlights and a new full size artificial grass pitch are included in the proposal, to meet current demand for training facilities for young people and adults. These improvement plans will be subject to planning approval, if the decision to grant a lease is confirmed. Currently the Ark Academy, and formally Elliot school, did not and do not make much use of the playing fields. Their existing usage in the 12 months before any lease is confirmed will be protected and there is currently some capacity to increase their usage during the school day going forward should they require it. However, the schools should contact Council Officers and the current contractor Idverde if they wish to use the site more often. In the future, the proposal of an artificial pitch as previously mentioned will help improve capacity at the site as it can be used far more regularly than grass pitches

### 46. **Appendix 6:** 1,289 signatures received via an on-line petition

*"We call on Wandsworth Council to reconsider the granting of the 30-year lease of RPF's to TFC in a bid to save themselves £50,000 a year.*

*The community use of these fields may therefore be under threat, potentially forcing community football clubs, schools and other projects out, resulting in young people having less to do in their local area, with no affordable access to the fields.*

*Local schools lack green space for their ever-growing pupil populations and therefore rely on the use of the fields to accommodate the physical education and health & wellbeing of their pupils. The proposals outlined by TFC may mean that this use could be restricted, and schools therefore will not have the green space they so badly need for their pupils.*

*We ask you to sign this petition to offer your support to the local community schools, sports clubs and projects who rely on the green space of RPF's so that they do not lose the use of the fields"*

Officers Comments: The provision of improved sports and playing field facilities will help those already using them to continue to have a positive impact on their health and wellbeing. The proposals will hopefully also assist those living and working in and around RPF to be more active and participate in a wider range of sports on the site,

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such as tennis, netball, football, and cricket both through local schools, clubs, community users and through the ability to pay and play for activities which is not currently available at the site. The new operator will also be more proactive in setting up new sessions to fill gaps in the current booking programme, as the site is generally under used, through more social and community-based sessions. The lease requires the successful bidder to continue to maintain the site as playing fields and sport facilities and the Council confirmed that any new lease would protect existing users for the full length of the lease, i.e. 30 years.

47. At the Council's Full Council meeting on 6th December 2017 the following question was raised by Councillor Sutters to the Cabinet Member for Community Services:

The Cabinet Member will be aware that I have served a petition tonight from residents in the Dover House Estate area calling on the Council to reconsider the opportunity for a community trust to come together to run the Dover House Playing Fields. If asked by the petitioners, what should I tell them?

**Answer:**

*Councillor Sutters is thanked for raising what we know is an issue which concerns many residents and of course we will respond in full to the petitioners in due course. The Council did seek submissions from groups and organisations in 2016, but we do understand that the residents of the Dover House Estate did not feel able to put forward a proposal at that time.*

*The Council is currently seeking views on the proposed leasing of the open space, at Roehampton Playing Fields, and, subject to agreement, we propose to enter a 30-year lease for the management of this site.*

*The Council will carefully consider the petition and in the light of feedback and comments, will explore ways of further engaging with the community to find an acceptable solution.*

48. On 8th December 2017, the Council released a press release confirming that the current procurement process would be paused pending the outcome of the community initiative.  
[http://www.wandsworth.gov.uk/news/article/14274/community\\_initiative\\_plan\\_for\\_roehampton\\_playing\\_fields](http://www.wandsworth.gov.uk/news/article/14274/community_initiative_plan_for_roehampton_playing_fields)
49. Since January 2018, Council officers and members have engaged with key stakeholders to facilitate a workable arrangement that would fit within the current procurement process whilst satisfying the Council's legal requirements. Whilst the process has been productive such an agreement could not be achieved.

### **OPTIONS**

50. Members are asked to consider the following options:

#### **Continue with the current procurement**

- (a) Progress the current disposal process, given the advantages offered to the public, the local community and the users of the playing fields by the proposal offered by TFC. Subject to the granting of necessary consents, the Assistant

### ***Roehampton Playing Fields– objections to proposed lease/disposal***

Director (Property Services), in consultation with the Director of Environment and Community Services and the Head of the South London Legal Partnership (SLLP) and the Council.

#### Advantages:

- Deliver the project as currently authorised by the Executive and deliver the service improvements achieving the savings detailed in Paper No. 17-285.
- Increase the level of local and borough wide participation in exercise.

#### Disadvantages:

- Potential challenge through Judicial Review by aggrieved residents to Land Disposal Process or wider tendering process - there is a moderate risk that this may occur given the widespread community objection to the proposal.

### **Review Current Procurement and re-tender on a revised basis**

- (b) Following the previous difficulties in progressing past the disposal route. Consideration is to be given to review the current procurement and restart the process. This approach will necessitate more community and social aspects to the tender specification and incorporate selection criteria for the inclusion of community groups to tender for the opportunity, on a short-term management arrangement. To aid this process, and fully understand what the community would like to see operating at the site, it is recommended that a full consultation is undertaken prior to marketing the opportunity. It is essential with such an approach that a clear and objective basis on which tenders are sought and particularly the governance model involving the community and social aspects of such a proposal.

#### Advantages:

- The re-tender will give the Council the opportunity to reconsider the proposal and devise a specific service model that will meet both the Council's wider service objectives and perhaps include more community involvement in the delivery of service.

#### Disadvantages:

- At present the Council is engaged with TFC in the current procurement process. The RFP documents issued by the Council contained the standard disclaimers stating that bidders bid at their own risk and cost as well as an express reference to the project being subject to the outcomes of the statutory consultation process. This offers the Council protection, if it ceases the process, from a claim by TFC that it has (1) incurred wasted bid costs and (2) has lost the opportunity to run the project that it had 'won' following an open procurement process.

Despite these protections, there is always a risk with procurement law that a Court could hold that the actions of the parties has created an implied contract and that the Council is in breach of that contract by stopping the procurement process at this late stage.

### ***Roehampton Playing Fields – objections to proposed lease/disposal***

The Council's legal advisers have advised that, in their view, the risk of such challenge being successful is **low** because of the following mitigations:

- The procurement was a below threshold procurement which means that it would be difficult (but not impossible) technically for TFC to bring a challenge to Court;
  - The RFP documents contained disclaimers to state that TFC is responsible for its own costs of procurement and that no implied contract is to be created until an actual contract is signed (however these disclaimers have been held to be superseded by the parties' actions in previous cases); and
  - The RFP document made it very clear that the project was subject to the statutory consultation processes, which have now raised the objections which are the subject of this report.
- A further disadvantage would be that for the period of such retender the Council would not be achieving the anticipated savings identified by the current proposal.

#### **Cease the Current Procurement and retain the services**

- (c) Cease the current procurement process and retain the services provided by Idverde (the Council's Ground Maintenance Contractor) and seek funding streams to redevelop the pavilion at the fields.

Advantages:

- Current levels of service can be maintained at no extra cost and without the resources needed to restart a procurement process.

Disadvantages:

- Identified cost savings and anticipated investment in the facility will not be achieved.
- The same risk of procurement challenge set out at Option (b) above also apply to this option.

#### **51. COMMENTS OF THE HEAD OF THE SOUTH LONDON LEGAL PARTNERSHIP (SLLP)**

The comments of the Head of the South London Legal Partnership (SLLP) are contained within the body of this report.

#### **COMMENTS OF THE ASSISTANT DIRECTOR (PROPERTY SERVICES)**

- 52. If the Council is minded starting a new procurement process with a wider involvement of the local community, the proposed lease required for the successful contractor to recoup its needed capital expenditure on upgrading the existing facilities, would again need to be in the region of a 30 years.
- 53. The proposed lease would again need to be 'contracted out' to section 24-28 of the Landlord and Tenant Act 1954 (part 2). This essentially means that the tenant would not have automatic rights to renew the lease at expiry.

### ***Roehampton Playing Fields– objections to proposed lease/disposal***

54. At the outset of restarting this procurement process, there needs to be clear and transparent evaluation criteria for the selection of a Contractor who has the necessary experience, ability and financial acumen to operate and successfully run this facility.

### **COMMENTS OF THE DIRECTOR OF RESOURCES**

55. The Director of Resources comments that Paper No.17-285 noted the proposal to dispose of land at Roehampton Playing Fields by way of a lease, and to award a concession contract for the management and maintenance of the Playing Fields. The proposal identified that if the scheme went ahead, projected reductions in grounds maintenance costs of £50,000 per annum and would generate an annual income stream for the Council's General Fund Revenue Budget. Budget adjustments as identified in the proposal have not been made and the site can continue to operate within existing approved General Fund Revenue Budgets until a decision over the site's future is made.

### **CONCLUSION**

56. Given the potential risks associated with the current process, the Director of Environment and Community Services recommends Option (b) to review the current procurement and restart the process for the management, maintenance and the redevelopment of the pavilion and playing fields at RPF. This approach will necessitate more community and social aspects to the tender specification and incorporate selection criteria for the inclusion of community groups to tender for the opportunity, on a short-term management arrangement. To aid this process, and fully understand what the community would like to see operating at the site it is recommended that a full consultation is undertaken prior to marketing the opportunity.

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The Town Hall  
Wandsworth  
SW18 2PU

PAUL CHADWICK  
Director of Environment and Community Services

28th January 2019

### **Background Papers**

There were no background papers to this report.

All reports to Overview and Scrutiny Committees, regulatory and other committees, the Executive and the full Council can be viewed on the Council's website ([www.wandsworth.gov.uk/moderngov](http://www.wandsworth.gov.uk/moderngov)) unless the report was published before May 2001, in which case the committee secretary (Thayyiba Shaah, 020 8871 6039; email [thayyiba.shaah@richmondandwandsworth.gov.uk](mailto:thayyiba.shaah@richmondandwandsworth.gov.uk)) can supply if required.