



Mayor and Cabinet

TenEmBee Sports Development Centre Old Bromley Road, Bromley BR1 4JY.

Date:	25 th June 2020
Key decision:	Yes (<i>but please see section 3, para 3.7 Policy Context</i>).
Class:	Part 1.
Ward(s) affected:	Downham
Contributors:	James Lee, Director of Community Programmes and Leisure. Michael Checksfield, Senior Estates Surveyor.

Recommendations

A new long lease of 25 years should be offered to TenEmBee Sports Club at a concessionary peppercorn rent.

A long lease is required so that the Sports Club can attract the necessary external grant funding to improve the site further, expand its facilities and increase the opportunities to local Lewisham Communities and Youth Groups.

TenEmBee Sports Club is a not for profit Charity governed by a Board of Trustees, which has the objectives to advance education, promote participation in local male and female sport within schools (often catering for excluded school children and those with learning difficulties) and maintain high quality playing surfaces and facilities for use by local community.

Officers consider the Council should support these objectives as much as possible.

Timeline of engagement and decision-making

There have been no formal decisions or public reports to date relating to TenEmBee Sports Centre.

A site visit was carried out on 25th October 2019 to assess the facilities currently offered by the Sports Centre and to meet the Trustees who are seeking the grant of the long lease.

An independent, external Valuation Report was obtained in June 2019 providing a Market Value for the site.

A decision is now needed so that the Trustees can make the necessary applications to funding bodies from which they are seeking financial assistance to meet their objectives.

As the land is open space, the Council will need to advertise the proposed disposal and consider any responses and the recommendations in this report are therefore subject to that.

1. Summary

- 1.1. TenEmBee Sports and Development Centre is located on the Old Bromley Road. The Trust currently has a 30 year lease from 1st January 1993 held on a peppercorn rent. The Trust run the site on an ostensibly 'not for profit' basis, covering all maintenance costs with some additional fund raising to help support the charity's initiatives.
- 1.2. The Sports Centre facilities has a single storey pavillion set within a large open playing field which includes an all-weather football pitch (with floodlighting), a hard surface tennis / netball court, 2 large grass football pitches, 2 small mini-football pitches and a cricket square.
- 1.3. The main building and grounds are presented to a good condition. There have been no issues with the site during the current tenancy and the site has been improved over the length of the existing lease.
- 1.4. The Sports Development Centre is run on a voluntary basis by a small group of Trustees, operating within a tight budget. Their objectives are to promote participation in local male and female sport, schools (often catering for excluded school children and those with learning difficulties) and maintain high quality playing surfaces and facilities for use by local community.
- 1.5. The Council are advised by the Trustees that 70% of the users are from the BAME Community. The Trustees have a Sports Development / Business Development Plan and have a firm commitment to working with the Borough to promote inclusion through sport through their Plan. This Plan includes financial plans to identify potential new income streams, establish the facility as a recognised social venue for local people, establish educational sport scholarship schemes with 6th form colleges and develop Adult Education classes and sessions for retired adults.
- 1.6. The Trustees are seeking additional lottery funding to improve the existing facilities and add to this with their own fund raising. The long lease is a requirement of these funding bodies to release monies for sports schemes. Officers do not consider at this stage that if this funding is successful, it would require the Council to 'match fund' or entail any further revenue commitment.
- 1.7. The main details of the report including risks, financial and legal implications are found in the full report.

2. Recommendations

It is recommended that Mayor & Cabinet:

- 2.1. subject to there being no objection arising from the statutory advertising of the proposal as set out at paragraph 5.18, with any objections to be reported back to Mayor and Cabinet for consideration, agree that a new long lease of 25 years is offered to the Trustees of TenEmBee Sports and Development Centre at a concessionary, peppercorn rent; and
- 2.2. delegate authority to the Executive Director of Housing, Regeneration and Environment, in consultation with the Interim Director of Regeneration and the Director of Law, to negotiate and agree the terms of the lease and all associated documentation.

3. Policy Context

- 3.1. Lewisham's Corporate Strategy 2018-2022, sets out the borough's ambitions through seven corporate priorities which are as follows:
 - Open Lewisham - Lewisham is a welcoming place of safety for all where we celebrate the diversity that strengthens us.
 - Tackling the housing crisis - Everyone has a decent home that is secure and affordable.
 - Giving children and young people the best start in life - Every child has access to an outstanding and inspiring education and is given the support they need to keep them safe, well and able to achieve their full potential.
 - Building an inclusive local economy - Everyone can access high quality job opportunities, with decent pay and security in our thriving and inclusive local economy.
 - Delivering & defending: Health, Social Care and Support - Ensuring everyone receives the health, mental health, social care and support services they need.
 - Making Lewisham greener - Everyone enjoys our green spaces and benefits from a healthy environment as we work to protect and improve our local environment.
 - Building safer communities - Every resident feels safe and secure living here as we work together towards a borough free from the fear of crime.
- 3.2. The strategy recognises the importance of the community and voluntary sector in all areas of public life. It recognises that the sector plays a significant part in Lewisham's ongoing success and states that 'it is only through strong and effective partnership working that we will deliver better outcomes for our citizens.'
- 3.3. Lewisham has a strong history of working with the voluntary and community sector and empowering residents and communities. Lewisham is fortunate to have a strong and thriving sector which ranges from very small organisations with no paid staff through to local branches of national charities. The sector includes charities, not for profit companies limited by guarantee, faith organisations, civic amenity societies as well as social enterprises. There are estimated to be around 800 community and voluntary sector organisations in the borough.
- 3.4. What all these organisations have in common is their ability to bring significant additional value to the work that they do through voluntary support and raising funds from sources not available to other sectors such as charitable trusts. In addition they often provide services that the Council cannot easily provide; create links between communities and people; and give people a voice.
- 3.5. As well as being directly involved in delivering services to citizens in the borough, third sector organisations also provide the essential infrastructure to allow the sector as a

whole to develop and support individual citizens to be able to play an active role within their local communities.

- 3.6. Lewisham was the first London Borough to develop a Compact with the third sector in 2001. The compact seeks to support a positive relationship between the sector and key statutory partners. It includes expectations around the management of grant aid as well as broader partnership working principles. The compact was further developed in 2010 with the addition of guidelines for commissioning with the third sector in recognition of the important contribution that the third sector should play in identifying needs as well as potentially delivering service solutions. The Compact has been followed throughout the letting of the programme.
- 3.7. Officers consider that approving such a long lease would obtain good local support and a refusal may result in lost opportunities for the borough.

4. Background

- 4.1. TenEmBee Sports and Development Centre is located on the Old Bromley Road. The Sports Centre was last inspected on 25th October 2019
- 4.2. The Centre's Trustees negotiated a 30-year lease from Lewisham Council commenced from 1 January 1993.
- 4.3. The Sports Ground has developed over time. They have a newish sport centre (built in 2003 with funding help from Sport England). The pavillion comprises 4 team changing rooms and showers, Officials changing rooms and showers, Male, Female and Disabled toilets, a Social Hall room, an adjoining Kitchen / Bar servery, an Office and a Committee / Coaches Room.
- 4.4. The Pavillion is set within large grounds, containing an all-weather football six a side floodlit pitch, various sized grass pitches (2 large and 2 mini sized), a cricket square (10 wickets) and a single hard tennis / netball court.
- 4.5. The Sports Ground is clearly more than just a building and playing field now – during the site visit officers noticed a photo on the noticeboard showing the old pavilion and playing field. Our site investigations indicated that the artificial all weather football pitch has also been added in the time of the existing lease.
- 4.6. The Centre has ground maintenance equipment valued at £80,000 including a tractor, specialist lawn mowers, seeders, scarifiers, cutters and transporters.
- 4.7. The sport club main building is presented to a good condition and is being looked after by the tenants. The sports fields are maintained properly. Officers are unaware of any issues with the site during the current tenancy.
- 4.8. The sports club is run mostly with the goodwill and voluntary work of the Trustees, operating within a tight budget, active in supporting local young people from Lewisham Borough.
- 4.9. The continuity of their tenancy is important so that proper facility planning can take place. They require a minimum of a 25 year lease so that they can make an application for funding to the Football Foundation and other community organisations. Such grants require some degree of match funding so the tenant would need to raise funds in order to support any successful application. At present, officers understand no detailed plans are in place for their funding application.

5. Research and Analysis

Lease analysis:

- 5.1. The London Borough of Lewisham own the freehold title. The asset is held by the Sports

Club on a 30 year lease from 1st January 1993 as a sports ground and pavilion. The rent charged is a peppercorn rent. Therefore there is c2.5 years remaining on the term of the lease.

- 5.2. The existing lease has a rent review clause. However, no rent review has ever been implemented during the term of the lease.
- 5.3. The Pavilion was replaced in 2003, during the current lease agreement. The Pavillion and probably the all-weather pitch as well, believed to be a later addition, would constitute tenant's improvements under the terms of the signed lease and would be disregarded at rent review.

Valuation analysis:

- 5.4. The Council commissioned a Valuation Report from Wilks Head and Eve, Valuation Date 26th June 2019. This placed a significantly high Market Rental figure of £26,500 per annum.
- 5.5. The property was valued by WHE according to RICS standards, valuing the Pavillion on a GIA basis at £10,500 per annum (£30 per sq m) and the grounds element at £16,000 per annum.
- 5.6. The grounds element was valued using separate income rates of £60 per hour for the full size football pitches, £30 per hour for the half football pitches, £100 per hour for the all-weather pitches and £30 per hour for the tennis court. Further adjustments were made for week / weekend use, seasonal use and maintenance / staffing of the facilities.
- 5.7. WHE have provided comparables to support their valuation figure. For the buildings the comparables range from £7 per sq m to £40 per sq m. The average of all the comparables is £18.75 per sq m and excluding one 'outlier' Hughesfield CC, the average is c£11.60 per sq m.
- 5.8. The rent applied by WHE valuers to the subject building is based at the top end of comparable rents. Officers consider the comparables chosen by them to be of better quality, apparently with higher grade facilities such as a gym, refurbished pavillions, established sports teams which attach a subscription and larger function rooms with separate bar facilities, capable of hosting private functions / corporate events etc.
- 5.9. The income shown in the report may be unrealistic as the all-weather pitch requires updating, the tennis court are of lower quality, being located in a peripheral location within the corner of the site and the pavilion, whilst comparatively modern, has only one meeting room of a small size. The other comparables stated in the report may have more potential for attracting custom through putting on private functions therefore.

Accounts Analysis:

- 5.10. The Sports Club have listed their financial accounts and these are accessible from the Companies House website. For the last 3 years (2016-2019), these accounts show an income range of c£70k to £80k per annum, expenditure of c£65k to £73k per annum and marginal trading figures, showing a range of figures from a £6.5k surplus down to a c£3.8k loss. The other trading element (private functions) of the income is steady at around £50k.
- 5.11. The accounts show little (if any) profit and seem to confirm what was advised by the Sports Club that fund raising is limited and the site operates substantially on the goodwill / free time of the Trustees. The annual costs of maintenance may also be lower than normally expected on account of work being done by volunteers as well.

Community benefit v Commercial considerations

- 5.12. The property has developed from a building and playing field. These facilities now on site can be considered a tenant's improvement, which at a rent review would be disregarded. A new lease would now include the new facilities which may be somewhat unfair on the Trust who are prepared to commit to the site in terms of time and income

and may feel they are being “doubly penalised”.

- 5.13. It is also relevant that the Council currently pay nothing in terms of the costs of maintenance. A sports centre and various sized grass pitches require constant maintenance. The current lease in place is on the basis that the annual costs of maintenance are covered by the tenant.
- 5.14. The tenants are planning to make applications for grant funding and intend to raise funds themselves. This will benefit the local community in Lewisham without further Council outlay.
- 5.15. Rents for sport grounds traditionally have remained historically low. There needs to be some realism and whilst as landlords The Council need to be commercially aware, we may have to settle for relatively lower rent if the Council wish to retain current community-based tenants.
- 5.16. Officers consider the current use would be very sensitive to subscription increases and commercial rents are likely to be unaffordable. If this is true the Council would need to consider whether there would be any one else in the market for such a facility at this point in time.

However, as landlords have become more commercially aware, there is a movement to bring rents in line with commercial levels seen within other sectors and, as a result, they are increasing. Local authority landlords in particular are looking to their property portfolios to maximise income. Landlords, however, must be realistic and accept that they may have to settle for relatively low amounts if they wish to retain their current community-based tenants, who may well find their support is sensitive to subscription increases, and to whom commercial rents may be unaffordable.

- 5.17. To comply with S.123(2A) of the Local Government Act 1972 it is necessary to advertise in a local newspaper the proposal in respect of the Council’s intention to dispose of open space land. The grant of the lease is therefore subject to this and consideration of any objections by Mayor & Cabinet.

6. Financial implications

- 6.1. The current tenants have paid no rent since occupation in 1993.
- 6.2. This report seeks approval for the offer of a 25 year lease to TenEmBee Sports Club at a peppercorn rent for the TenEmBee Sports and Development Centre located on the Old Bromley Road.
- 6.3. The report also recommends delegation of authority to the Executive Director of Housing, Regeneration and Environment, in consultation with the Interim Director of Regeneration and the Director of Law, to negotiate and agree the terms of the lease and all associated documentation
- 6.4. There are no direct financial implications for granting the lease as proposed. The proposal will enable the sports club to secure additional funding, allowing them to maintain the existing services.
- 6.5. If a high rent / Market Rent is charged for this site, this will almost certainly threaten the current sporting arrangements and may possibly curtail them. The current lease is coming towards the end and if not renewed by the Sports Club, the new lottery funding may be completely lost to the local community. This will disadvantage local children who may have to go elsewhere, possibly even outside the Borough itself.
- 6.6. There may be a further cost implication of the Sports Club discontinuing because the Council will have to then manage the facility itself while seeking a new provider capable of taking the property over. The Hall and particularly the Grounds, require constant upkeep and maintenance to maintain their quality and suitability for sport. If a new long

lease cannot be agreed, and the current tenants decide not to carry on, preferring to vacate the site at the expiry of their current lease, then there could be an adverse effect on the quality of the grounds. Whilst this is uncoded, a private contractor would certainly charge more to maintain or reinstate the grounds as necessary and it would be an ongoing cost to be met by us.

- 6.7. The Council have not been asked for any direct financial contribution to this project. We are advised that it is the intention of TenEmBee to seek sports lottery funding and any short fall is to be made up by their own fund raising initiatives.

7. Legal implications

- 7.1. This report recommends that a new 25 year lease is granted to the Trustees at a peppercorn rent. The final terms of the lease will need to be agreed with the Trustees. However, it is anticipated that the lease will contain obligations for the tenant to deliver agreed community benefits in the form of specified outputs, failing which the Council will have the ability to terminate the lease and take the property back. There will also be restrictions on future assignment of the lease and any other terms considered necessary to ensure the continued operation of the site as envisaged.
- 7.2. Under Section 123 of the Local Government Act 1972 the Council may not dispose of non-housing land otherwise than for the best consideration reasonably obtainable except with the consent of the Secretary of State. The Council will not be receiving best consideration for the lease. However the Secretary of State has issued a general consent under Section 123 which applies where:
- (a) the authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objects in respect of the whole or any part of its area, or all or any of the persons resident or present in its area:
- the promotion or improvement of economic well-being
 - the promotion or improvement of social well-being
 - the promotion or improvement of environmental well-being; and
- (b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000.
- 7.3. Mayor and Cabinet should therefore be satisfied for the reasons set out in this report, the grant of the lease to the Trustees will contribute to the improvement of the social well-being of persons resident in the borough.
- 7.4. The premises consist of open space. The grant of the lease therefore constitutes a disposal of an interest in land which is open space and consequently the Council is required to advertise notice of its intention to so dispose pursuant to Section 123(2A) of the Local Government Act 1972. The Council is required to consider all responses received and take them into account before determining whether to make the disposal. For this reason, any responses to the notice would need to be referred back to Mayor and Cabinet before the lease is granted on the basis proposed and the recommendations in this report are therefore subject to this.
- 7.5. The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.6. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other

conduct prohibited by the Act.

- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

- 7.7. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 10.3 above.
- 7.8. The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 7.9. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
- 7.10. <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 7.11. This report is a Key Decision under the Council’s Constitution as it recommends the grant of a lease at less than best consideration.

8. Equalities implications

- 8.1. By law, the Council must have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 8.2. This means that the Council has a legal duty to consider the implications of anything we do on the basis of people’s protected characteristics as set out in the Equality Act 2010.
- 8.3. Officers consider that should the lease be granted, this will allow the Sports Club to increase their level of influence within the community and help reduce inequality and further assist marginalised groups.

9. Climate change and environmental implications

- 9.1. The Council has made a commitment to making the borough carbon neutral by 2030. This requires every service area to consider how to embed low-carbon and environmental policies and practices in our approach to service delivery.

- 9.2. The building footprint forms a small part of the overall site. Should the pavillion be upgraded and facilities increased, this should reduce further the energy and carbon implications of the site.

10. Crime and disorder implications

- 10.1. The Council must consider how its activity can prevent crime and disorder in the borough. The Crime and Disorder Act 1998 places a duty on local authorities to identify community safety implications in all our activities.
- 10.2. Engaging young people in sport has significant benefits in preventing or reducing the impact of crime and antisocial behaviour as well as promoting community cohesion.

11. Health and wellbeing implications

- 11.1. Sport can have a direct positive impact on health, mental health and wellbeing, allowing social inclusion, independence and participation. The TenEmBee Sports Centre provides excellent green space and its programmes, if expanded further, should increase child development, education and sek to improve good employment opportunities.

12. Social Value implications

- 12.1. The mission statement for the Sports centre is as follows
- 12.2. “The Ten-Em-Bee Sports Development Centre has a mission statement provides sporting opportunities for people, in an atmosphere where ‘playing the game’ will be a rewarding experience that will remain for life. The centre is a place of education where learning, training, personal development and loyalty are valued”.
- 12.3. The Centre seeks to to provide a solid foundation for the development of young players and sports person of the future and promote and support good results in terms of health, development and educational achievements for students.

13. Background papers

- 13.1. None supplied / required.

14. Glossary

- 14.1. A Glossary has not been provided as there are no particularly difficult terms contained within the report.

15. Report authors and contact

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