



Mayor and Cabinet

Lease of Abbotshall Playing Fields

Date:	16 September 2020
Key decision:	Yes
Class:	Part 1
Ward(s) affected:	Catford South
Contributors:	Executive Director for Community Services / Katharine Kazantzis, Legal / Group Finance Manager, Community Services

Recommendations

This report recommends that a lease of 25 years should be offered to Abbotshall Healthy Lifestyle Centre for the site known as Abbotshall Playing Fields at a concessionary peppercorn rent.

A long lease will provide the necessary basis for the organisation to attract external grant funding to improve the site further, expand its facilities and increase the opportunities to local Lewisham communities.

Abbotshall Healthy Lifestyle Centre is a charitable organisation governed by a board of trustees, with the following objectives:

- Improve community and individual health, well-being and happiness.
- Enhance social cohesion and community involvement in improving and helping others in the neighbourhood.
- Foster the development of young people around sports, creativity and volunteering.
- Enable interventions to reduce social isolation at different stages of life specifically young parents and our elder citizens.
- Contribute to further increasing the level of social capital invested in the local area.

Timeline of engagement and decision-making

There have been no recent formal decisions or public reports to date relating to Abbotshall Playing Fields.

In November 2019 an invitation was advertised for organisations to submit an application to take on the lease of of Abbotshall Playing Fields with a deadline of 23 January 2020.

Interviews took place in February 2020

This report is classified as a Key Decision for the Council to make as the granting of a long lease at a peppercorn will be for less than 'best consideration'.

1. Summary

- 1.1. Abbotshall Playing Fields are Metropolitan Open Land and are approximately 1.2 hectares in size. They were formerly a schools site but In 2011, following a period of disuse, Lewisham Council took the decision to lease them to Community Teachsport at a peppercorn rent. This paved the way for a building and refurbishment programme costing in the region of £500,000 and involving the regeneration of the playing fields and removal and replacement of a dilapidated pavilion.
- 1.2. The site was opened in its current form in May 2015 as Abbotshall Healthy Lifestyle Centre. Provision is currently made for junior football - two mini pitches (66M x 37M) and junior cricket – a synthetic strip (30M x 3M) and an arena for primary school sports activity and multi-sport activity for children and their families during the school holidays. There is also a community garden to grow fruit and vegetables. The modular building comprises of changing rooms, a community café space, an exercise, dance and movement studio, community meeting rooms, training facilities and offices.
- 1.3. The site operated successfully with a good programme of activities and strong local community support until 2018, when Community Teachsport fell into financial difficulties and went into voluntary liquidation
- 1.4. In order to keep the site open a group of local residents formed a new committee. Most of these people were members or had previously been members of the Corbett Residents Association and had experience in managing the the community library at Torridon Rd. The committee continued to operate as an offshoot and under the auspices of the Corbett Residents Association and with this accountability in place Officers were able to put in place a short term management agreement for Abbotshall Playing Fields. In the ensuing months the committee began to develop its own infrastructure, recruited new members that would enhance its expertise and formally constituted itself to become an independent organisation known as Abbotshall Healthy Lifestyle Centre with a view to bidding to take on a long term lease of the site
- 1.5. In November 2019 an invitation was advertised for organisations to submit an application to take on the lease of of Abbotshall Playing Fields with a deadline of 23 January 2020. Interviews took place in February 2020 and it is the view of officers that Abbotshall Healthy Lifestyle Centre has most effectively demonstrated to manage the site. Details of the process are outlined at section 5 and section 6.

2. Recommendations

It is recommended:

- 2.1. that a lease of 25 years of Abbotshall Playing Fields shown on the attached plan is offered to Abbotshall Healthy Lifestyle Centre at a concessionary, peppercorn rent

subject to:

- 2.1.1. there being no objection arising from the statutory advertising of the proposal as set out at paragraph 9.2, with any objections to be reported back to Mayor and Cabinet for consideration; and
 - 2.1.2. the proposal being notified to the Secretary of State under Section 77 of the School Standards and Framework Act and there being no objection from the Secretary of State.
- 2.2 authority be delegated to the Executive Director for Community Services, in consultation with the Director of Inclusive Regeneration and the Director of Law, Governance & HR to negotiate and agree the terms of the lease referred to in recommendation 2.1 above

Policy Context

- 2.2. 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.
- 2.3. 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.'
- 2.4. 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.
- 2.5. 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.

- 2.6. 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.
- 2.7. 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. Background

- 3.1. Abbotshall Playing Fields are Metropolitan Open Land and are approximately 1.2 hectares in size. They were formerly a schools site but In 2011, following a period of disuse, Lewisham Council took the decision to lease them to Community Teachsport at a peppercorn rent. This paved the way for a building and refurbishment programme costing in the region of £500,000 and involving the regeneration of the playing fields and removal and replacement of a dilapidated pavilion.
- 3.2. The site was opened in its current form in May 2015 as Abbotshall Healthy Lifestyle Centre. Provision is currently made for junior football - two mini pitches (66M x 37M) and junior cricket – a synthetic strip (30M x 3M) and an arena for primary school sports activity and multi-sport activity for children and their families during the school holidays. There is also a community garden to grow fruit and vegetables. The modular building comprises of changing rooms, a community café space, an exercise, dance and movement studio, community meeting rooms, training facilities and offices.
- 3.3. For the past 5 years local schools have had access to the playing field for sports days, inter school football matches, training sessions and end of term picnic afternoons. The local primary schools that have regularly used the site include Holy Cross, Rushey Green, Sandhurst, Torridon and Conisborough College
- 3.4. The site operated successfully with a good programme of activities and strong local community support until 2018, when Community Teachsport fell into financial difficulties and went into voluntary liquidation
- 3.5. In order to keep the site open a group of local residents formed a new committee. Most of these people were members or had previously been members of the Corbett Residents Association and had experience in managing the the community library at Torridon Rd. The committee continued to operate as an offshoot and under the auspices of the Corbett Residents Association and with this accountability in place Officers were able to put in place a short term management agreement for Abbotshall Playing Fields. In the ensuing months the committee began to develop its own infrastructure, recruited new members that would enhance its expertise and formally constituted itself to become an independent organisation known as Abbotshall Healthy Lifestyle Centre with a view to bidding to take on a long term lease of the site
- 3.6. Provision of a long term lease is important so that effective facility planning can take place, including applications for external funding to bodies such as Sport England and the London Marathon Charitable Trust. Applications such as these are conditional on tenant organisations being able to demonstrate security of tenure.
- 3.7. The option of a market rent has been considered but is not recommended as it is likely that the community based arrangements in place would be undermined and that the financial burden would necessitate an entirely different business model, which would potentially exclude local people.

- 3.8. A peppercorn rent attached to a long lease will support the organisation in achieving its vision and attracting external grant funding to develop the site further, improve the facilities offered and widen the opportunities that can be provided to the local community.
- 3.9. In recognition of the site's history and its ongoing importance in providing access for local schools to green space, the lease will stipulate that schools will have continued access to the site. Abbotshall Healthy Lifestyle Centre will be required to have a schools use policy, which will be approved and monitored by Council officers.
- 3.10. 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.

4. Application process

- 4.1. In November 2019 an invitation was advertised for organisations to submit an application to take on the lease of of Abbotshall Playing Fields with a deadline of 23 January 2020. A copy of the Application Pack can be found at Appendix A.
- 4.2. The opportunity was publicised widely by email and social media through a range of Council, voluntary sector, local community, health and physical activity and Local Assembly networks.
- 4.3. Applications were received from Abbotshall Healthy Lifestyle Centre and Carpe Deum Football Club.
- 4.4. Applications were assessed by officers with relevant expertise and experience from Culture (Including Sport), Regeneration and Asset Management and Local Assemblies.
- 4.5. As outlined in the Application Pack, applications were evaluated against the following requirements which were scored on a pass/fail basis.
 - Confirmation of receipt an an adequate Constitution/Trust Deed/Memorandum and Articles of Association (as applicable).
 - Confirmation of receipt of audited accounts demonstrating that the organisation is a going concern.
 - Confirmation of an adequate equal opportunities policy.
 - Confirmation relating to required insurances.
- 4.6. Applications were then evaluated in accordance with the evaluation criteria and the information provided around
 - Proposed use of the building and playing fields
 - Organisational Capacity
 - Forecast 5 year revenue and expenditure
 - Description of plans to involve the local community
 - Any additional information
- 4.7. Each area was scored between 0-10.
 - A score of 0 to 2 = not acceptable or major areas of weakness
 - A score of 3 to 4 = less than acceptable more weaknesses than strengths
 - A score of 5 to 6 = acceptable but with some minor areas of weakness
 - A score of 7 to 8 = highly acceptable strong with few weaker areas
 - A score of 9 to 10 = extremely competent, many strengths no weaknesses

- 4.8. Although preliminary assessments took place, the decision was made that representative of both organisations would be invited for interview before the formal scoring process was completed.
- 4.9. Interviews took place in February 2020 and the organisation were scored against the criteria with Abbotshall Healthy Lifestyle Centre achieving the highest score and most effectively demonstrating an ability to manage the site.
- 4.10. Details of the applications of both organisations can be found at Appendix B and C

5. Summary of the Abbotshall Healthy Lifestyle Centre (AHLC) offer

- 5.1. AHLC has created a theory of change model by researching the local community, the market and considering how it can meet the boroughs wider corporate objectives. The focus is particularly around being healthy, being an engaged citizen, and working with and looking after the local community.
- 5.2. The organisation has identified inputs as follows:
 - Volunteer Time: skills, knowledge & commitment
 - Income from hires – pays for operational staff and running costs
 - Income from grant – pays for developmental staff, contributes to running costs
 - Income from crowdfunding – pays for specific things
 - Income for partnership projects and arrangements
 - Physical resources: buildings, equipment, fields, garden.
- 5.3. Activities that will be delivered by AHLC include:
 - Physical exercise classes
 - Café + food-based activities, workshops, education
 - Team sports – adults volunteering; children – volunteering, the community
 - AHLC community and garden management – informal education, workshops, volunteering
 - Community events and “bringing the community together” type of activities.
- 5.4. Outcomes and impacts that will be realised through these activities are as follows:
 - Individuals attending classes leading to a feeling of vitality and well-being and the community espousing an active lifestyle
 - Team building amongst adult and children’s team sports leading to increased confidence and willingness to make positive changes in other areas of life
 - Knowledge of food growing, production – leading to healthier eating and promotion of positive environmental interventions
 - Confidence and self-determination – well being
 - Satisfaction with life in the neighbourhood and willingness to engage and participate in civic life
 - Generating more focus on the local economy through partnership leading to better local sustainability of local shops and services
 - Savings on health service costs locally potentially highlight the Value for Money achieved by the AHLC and its other local partners

- 5.5. AHLC will put in place effective mechanisms to measure the impact of its activities. These will focus on:
- Satisfaction surveys
 - Revenue levels - Café takings; class takings, and revenue generated by hiring spaces in the Centre
 - Attendance - usage and take up of classes and other services
 - Number of volunteers
 - Number of local people involved in the Centre (both using it and volunteering).

6. Community Benefit v Commercial Considerations

- 6.1. No valuation of the site has taken place but the option of charging a commercial rent for the site could be considered. Local authority landlords are in general looking to their property portfolios to maximise income and this approach would provide an opportunity to derive an income from the site. However it is the view of officers that the community based arrangements in place would be undermined by this approach and that the financial burden would necessitate an entirely different business model, which would potentially exclude local people. Any value foregone does not exceed £2m over the term of the lease.
- 6.2.
- 6.3. It is important to note under a leasing arrangement the Council would not be responsible for costs of maintenance as these costs would be covered by the leaseholder.
- 6.4. The benefits of a community led approach are outlined in section 3 but of particular note is that the leaseholder would have the 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.
- 6.5. AHLC is planning to make applications for grant funding and intend to raise funds to further develop the site and for additional activities. This will benefit the local community in Lewisham without further Council outlay.

7. Financial implications

- 7.1. This report seeks approval to offer a 25 year lease for Abbotshall Playing Fields to Abbotshall Healthy Lifestyle Centre at a peppercorn rent.
- 7.2. Reasons for proposing this rather than a market rent are set out in paragraphs 2.2 and 7. Reasons for selecting Abbotshall Healthy Lifestyle Centre are set out in paragraph 5.

8. Legal implications

- 8.1 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.

Mayor & Cabinet should therefore be satisfied, for the reasons set out in this report, that the grant of the lease to AHLC will contribute to the achievement of one or more of the above objects.

8.2 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 recommendation 4.1 is therefore subject to this.

8.3 Section 77 of the School Standards and Framework Act 1998 (SSFA 1998) requires the Council to seek consent to dispose of land that is being currently used or has been used for playing fields for the purposes of a maintained school in the last 10 years. The Secretary of State for Education uses the definition of "playing field land" set out in SSFA 1998 as "land in the open air which is provided for the purposes of physical education or recreation." This is a wide definition and it does not matter if the land is not currently in use for sport or recreation or is not laid out for formal team games. As stated paragraph 4.3 of this report, there has been some occasional use of the site by local schools in the last 5 years. On this basis, Section 77 is considered to be engaged. However, the Secretary of State has issued a series of General Consents including the following consent:

The disposal of playing fields where they are not a school's own provision of playing fields but fall within Section 77 only by reason of a school's temporary or occasional use of them.

'School's occasional use' means either an infrequent and informal use without prior agreement, or a formal use but only by specific pupils or for a set purpose on an infrequent basis.

This General Consent is considered to apply in this instance. The Council will be required to notify the Secretary of State that this is the case and demonstrate why the General Consent is engaged. Subject to that, the consent of the Secretary of State is not required.

8.4 The terms of the lease will need to be negotiated with AHLC. Any agreed conditions can be included in the lease as an agreed schedule of outputs with monitoring arrangements, which the lessee will then covenant to comply with. However, it must be noted that the remedy for breach of a lease covenant is forfeiture (i.e. termination of the lease). If the breach is anything other than non payment of rent, then before the right of forfeiture can be exercised the landlord has to serve on the tenant a notice specifying what the breach is and giving the tenant a reasonable time to remedy the breach – if the breach is remedied then the right of forfeiture is removed. Ultimately, forfeiture is a discretionary remedy i.e. even if there is a breach and the landlord seeks to forfeit the lease, the

tenant can apply to the court for relief from forfeiture. The court will then consider the conduct of the tenant, the nature and gravity of the breach and its relation to the value of the property to be forfeited.

8.5 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.

8.6 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.

8.7 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.

8.8 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:

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

<https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>

8.9 This report is a Key Decision under the Council's Constitution as it recommends the grant of a lease at less than best consideration.

9. Equalities implications

9.1. 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.

9.2. 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.

9.3. AHLC has a clear Equal Opportunities Policy that recognises that creating a community which is tolerant and understanding means actively challenging discrimination and taking positive action to encourage the active involvement of disadvantaged and minority groups in all aspects of its work. In doing so it will have regard to the needs and aspirations of all those who face discrimination and disadvantage.

9.4. Equalities will form part of the overall monitoring framework, against which the organisation will be monitored by the Council going forwards.

10. Climate change and environmental implications

10.1. 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.

10.2. AHLC has made a commitment to supporting the Council's corporate objective to make Lewisham greener and will do this by:

- Maintaining and encouraging the best use of the playing fields.
- Developing the community garden (including a new orchard) as a focus for environmental projects.
- To create a programme for people to learn how to grow food
- Due to allotments being in high demand in the area the Community Garden will be used to provide better access to gardening

11. Crime and disorder implications

11.1. 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.

11.2. Engaging people in sport has significant benefits in preventing or reducing the impact of crime and antisocial behaviour as well as promoting community cohesion.

12. Health and wellbeing implications

12.1. Engagement in sport has a direct positive impact on health, mental health and wellbeing, social inclusion, independence and participation.

12.2. AHLC recognises the importance of using the site as a vehicle to enhance the health and wellbeing of local people and has developed a programme of activities that support this objective. This includes:

- Hosting a wide variety of activities to increase health and well-being. Piloting new activities in these areas (such as intergenerational activities) and seeking to measure the social and health impact of these activities.
- Healthy eating "Café and Kitchen" workshops where older residents are handing down recipes to the young
- Using the Café "Promotion nights" to integrate, older, younger and family residents
- Developing mixed walking and other sports teams and events.

13. Social Value implications

13.1. Abbotshall Healthy Lifestyle Centre is a charitable organisation with the following objectives, which promote social value:

- Improve community and individual health, well-being and happiness.

- Enhance social cohesion and community involvement in improving and helping others in the neighbourhood.
- Foster the development of young people around sports, creativity and volunteering.
- Enable interventions to reduce social isolation at different stages of life specifically young parents and our elder citizens.
- Contribute to further increasing the level of social capital invested in the local area

14. Background papers

Appendix A – Abbotshall Application Pack

Appendix B – AHLC Application

Appendix C – Carpe Deum Application

15. Glossary

None

16. Report authors and contact

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