

## **CABINET**

**1 NOVEMBER 2011**

### **BEECHINGS CROSS PLAYING FIELD – TENNIS ACADEMY**

Portfolio Holder: Councillor Howard Doe, Housing and Community Services

Report from: Robin Cooper, Director of Regeneration, Community and Culture

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#### **Summary**

This report updates Members on the establishment of a Tennis Academy at Beechings Cross playing fields, and seeks agreement to enter into a partnership with a new company.

#### **1. Budget and Policy Framework**

- 1.1 The establishment of a Tennis Academy at Beechings Cross meets one of the stated Delivery Plan actions within the Cultural Strategy, helping to meet the Strategic Priority of Health and Wellbeing.
- 1.2 The Cabinet is asked to accept this report as urgent to enable the proposal to be progressed taking the opportunity that has arisen.

#### **2. Background**

- 2.1 In June 2008 Cabinet supported the proposal to establish a Tennis Academy at Beechings Cross, Gillingham. Since that time matters have progressed slowly with the preferred operator. Since Cabinet's approval in 2008, the economic climate has deteriorated significantly and financing the scheme has become a major obstacle for that company.
- 2.2 Working together with the private sector, an opportunity now exists to enter into an agreement with a new third party, the details of which are set out in the Exempt Appendix.
- 2.3 This proposal is to build a tennis facility consisting of five indoor courts, three outdoor courts and clubhouse aimed primarily at young people at

an affordable price, that is consistent with the previous proposal from the existing preferred operator.

- 2.4 The proposal would also include changing facilities for the incumbent football club on the site, Rainham Eagles.

### **3. Options**

- 3.1 It is clear, having investigated all financial options with the previous partner, that raising the necessary capital to fund the project is extremely problematic. Other financial options would involve the Council acting as guarantor for the scheme and the associated risks are considered too high for the Council to undertake this role.
- 3.2 The proposal is for the new third party to form a new charitable company, The Medway Tennis Academy, that will manage and operate the facility as a community service. The funding of the entire project, estimated at £1m - £1.3 million, will be through an established property holding company.

### **4. Advice and analysis**

- 4.1 Protracted negotiations with the existing preferred operator to take their project forward have floundered. The financial risks to the Council are too great and this proposal is no longer being progressed. Save for the proposal contained within this report, no other proposals for a tennis academy on this site have been forthcoming since the matter was last reported to Members.
- 4.2 The land at Beechings Cross is currently designated for a cemetery extension within the adopted local plan. However, the tennis facility would require around a third of the designated land and within the timescales of the proposed lease this use would not interfere with the future requirements of the Bereavement Service.
- 4.3 To many the cost of using purpose-built tennis facilities is considered high. The Medway Tennis Academy proposal is to operate as an incorporated charitable company, which will have a focus on tennis for all, especially young people, at a cost that is affordable. Subject to further negotiations, it is anticipated that there will not be a charge for membership and that there will be the option of "pay and play" at a low cost hire rate.
- 4.4 Gillingham Football Club currently uses the adjoining site to Beechings Cross to the north of the land in question as a training facility. The Club has long had a desire to further develop this presence and to establish a Football Academy on the site envisaged within this report as the location for the Tennis Academy.

- 4.5 Whilst the Council undoubtedly seeks to support the Club’s wider aspirations as a community football club, the case for a Football Academy has not been made, and indeed there is an over-provision in the market as stated elsewhere in this report. What is therefore intended is to progress the Tennis Academy proposals to the southern end of the Beechings Cross site, leaving the majority of the site available for any potential alternative proposals, including football academy proposals. Any such future proposals would of course be considered on their merits, and be subject to the usual due diligence checks.
- 4.6 If a Tennis Academy on this site is to be pursued, a balance needs to be struck between achieving “best consideration” for the disposal of the land (under s123 of the Local Government Act 1972) and the delivery of an under-provided sporting facility for the community. Developing other forms of sporting facilities on the land, such as a five-a-side football complex, could generate higher values than a Tennis Academy, but the market for five-a-side football is currently saturated with Kicks at Strood and Play Football in Rainham. In such cases the Council has the power under general consents to dispose of land at an “undervalue” of up to £2 million where it considers that the disposal will improve or promote the economic, environmental or social wellbeing of the area or any part of the area. In exercising its wellbeing power the Council must have regard to its Sustainable Community Strategy.
- 4.7 It is considered that the proposed disposal would promote the social wellbeing of the Medway area and the residents of the area through the development of an affordable tennis facility, contributing to the Council’s strategic priorities. The Council’s Sustainable Community Strategy sets out that two of its six ambitions are that (i) Medway residents enjoy good health, wellbeing and care (ii) Medway is recognised as a destination for culture, heritage, sport and tourism. In order to achieve these aims the strategy sets out that the Council will seek to improve access to and uptake of active recreation across all age groups and that it will seek to improve the range and quality of cultural, sporting and heritage facilities. The proposal to establish a Tennis Academy will assist in achieving these ambitions.

## 5. Risk management

Risk	Description	Action to avoid or mitigate risk
Planning consent is not granted due to it being a departure from the local plan.	The land is safeguarded in the Local Plan (Policy CF8) for a cemetery extension.	Demonstrate the land is not required for cemetery use within the length of the ground lease.

Failure of the developer to complete the project.	Failure to construct and operate the Tennis Academy.	Ensuring the developer has sufficient experience and financial resources to complete the project.
Financial risk to the Council.	The Council incurs revenue or capital costs in the delivery of the project.	The terms of the lease do not involve financial input from the Council. As a new company is being established, where necessary the Council will seek suitable lease guarantors.

## 6. Financial and legal implications

- 6.1 The Council has a duty under s123 of the Local Government Act 1972 not to dispose of land at less than best consideration unless the consent of the Secretary of State is obtained. There is a general consent to dispose of land at an undervalue of up to £2 million where the disposal is likely to contribute to the promotion or improvement of the area's social, economic or environmental wellbeing. In determining whether to use this power, once a deal has been negotiated, the Council needs to undertake a valuation of the land so that it is aware of the extent of the undervalue that is being authorised.
- 6.2 The site currently falls within the definition of open space, so as to require advertisement under s123(2A) of the Local Government Act 1972. The Council will therefore need to advertise the proposed lease for two consecutive weeks and consider any objections made to it in determining whether to proceed with the lease.
- 6.3 The Council must also be satisfied that, in disposing at an undervalue, there are no state aid issues (or if there are that they are below the de minimis level of 200,000 Euros for a period of three years or are covered by another exemption).
- 6.4 The private sector provider has advised they have the financial resources and experience to build and manage this facility without third party input and are in a position to provide swift action to move towards project commencement that has been the cause of long delays to date.
- 6.5 It is likely that any agreement with the developer will be subject to the grant of planning permission. Any application will be subject to consideration by the Council as local planning authority in due course. It is to be noted that the proposal would be a departure from the local plan and that is something that will be considered in the planning process, however, it is relevant to note that the Bereavement and Registration Services Manager has advised that the land is unlikely to be required for a cemetery extension (the allocation in the local plan)

within the proposed term of the proposed lease as set out in the Exempt Appendix.

## **7. Recommendation**

- 7.1 Cabinet is asked to support the proposal to develop a Tennis Academy on the Beechings Cross site with the new company to be established by the private sector provider identified within the Exempt Appendix.
- 7.2 Cabinet is asked to authorise the Director of Regeneration, Community and Culture and the Chief Finance Officer, in consultation with the Portfolio Holders for Housing and Community Services and Finance, to:
- Consider any objections made pursuant to the advertisement under s123(2A) of the Local Government Act 1972 and to determine, in the light of those objections and all other relevant matters, whether to proceed with the lease of the land and if so
  - To enter into the necessary legal agreements with the private sector provider and/or any new company established by the private sector provider, if necessary using its wellbeing powers under Circular 06/03 (Local Government Act 1972 general disposal consent (England) 2003, to conclude a deal on the terms set out in the Exempt Appendix.

## **8. Suggested reasons for decision**

- 8.1 This decision will enable the establishment of a new Tennis Academy within Medway, meeting established demand, whilst at the same time affording Gillingham Football Club or any other provider the opportunity to bring forward proposals for the major footprint of the site, which will be considered on their merits in due course.

### **Lead officer contact**

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### **Background Papers:**

Cabinet Report "Beechings Cross Playing Fields: Soccer/Tennis Academy" – 3 June 2008 Report available on the council's website.