



Item No.
[Item number and title as
on agenda]

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Name of Committee
CABINET

Directorate: Governance and
Resources

Corporate Director: Isabell Procter

Date: 2 July 2007

Public Agenda

Report Title	Sixfields Stadium - Request for lease variations
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Key Decision	YES
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1. Recommendations

1.1 Subject to confirmatory advice from Counsel, Cabinet is requested to approve the principle that changes can be negotiated to the existing contractual arrangements between this Council and Northampton Town Football Club Limited (NTFC) governing amongst other things the use and alienation of land presently held by NTFC under the terms of the Lease dated 13 April 2004 (the "Lease") of land at Sixfields, subject to complying with the following conditions.

(a) That any revised permitted user under the Lease shall not reduce the existing community use provisions relating to the Property.

(b) That NTFC should pay to this Council an appropriate proportion of the premium or other monies received by them from any third party, to reflect the commercial value to NTFC of this Council agreeing variations to the existing contractual position. This Council's share to be negotiated with NTFC in accordance with external professional advice.

(c) That in accordance with the present terms of the Lease any capital or revenue monies released to NTFC as a result of any revised contractual arrangements, would be spent on new improvements to the Property for sporting purposes.

(d) That as a result of any revised arrangements agreed with NTFC there should be no new revenue or capital liabilities for this Council.

1.2 That Cabinet should direct whether any detailed heads of terms agreed with NTFC in respect of any such variations should be brought to either:

- (a) a future Cabinet Meeting for formal approval or
- (b) the Cabinet Portfolio Holder for delegated decision.

2. Summary

2.1 Northampton Town Football Club Limited ("NTFC") hold a lease of Property known as Sixfields Stadium. The lease was granted to them by this Council on 13 April 2004 (the "Lease"). The Lease is for a term of 150 years from 13 April 2004 and the annual rent payable is a peppercorn, without review. NTFC paid a premium to this Council of £1 on the grant of the Lease.

2.2 The principal use of the Property under the Lease is as a Community Stadium for the use of the Football Club, with an ancillary athletics track and more generally as a facility for the provision and facilitation of sport and recreation for the people of the Town.

2.3 Subject to compliance with certain provisions, NTFC may however sub-let a specified part of the land included within the Property for development as a hotel and conference centre. The Council may not unreasonably withhold or delay consent to such a proposed transaction. It was agreed that any monies released through such a sub-letting should be spent on the improvement of the Property for sporting purposes.

2.4 NTFC wish to grant a 125 years ground lease of the specified area to a hotel operator for the development of a hotel, in return for which NTFC would receive a premium. However, the hotel operator is unwilling to take a long sub-lease of the land concerned without there being variations to the terms of the Lease. This is because any sub-lease must necessarily be consistent with the terms of the principal Lease. There are terms in the Lease that are commercially unacceptable to the hotel operator.

2.5 Some time ago NTFC approached this Council seeking agreement to the variation of the Lease in various ways. Some of these variations were to address the specific concerns of the hotel operator and other suggested changes reflected wider aspirations of the Club.

2.6 NTFC have subsequently sought more focussed changes predominantly to deal with the commercial concerns of the hotel operator with whom they wish to deal.

- 2.7 In reaching any agreement to allow NTFC to release funds to invest in the Stadium, this Council has to be mindful of its duty to achieve best value for the Council in facilitating such a transaction.

3. Report Background

- 3.1 The Lease granted in 2004 was granted at an under value under the terms of the General Disposal Consent Order (England) 2003.
- 3.2 The provisions of the Lease do permit the grant of a sub-lease to a hotelier and the original intention of the Council was to allow such a use. Nevertheless, a number of the changes proposed do extend beyond the position originally envisaged. The terms of the Lease were fixed when the lease was completed. Consequently, NTFC now require the co-operation of this Council to vary the Lease.
- 3.3 This request for a variation of the Lease/contractual arrangements is separate from wider concerns that NTFC have concerning the development of a Sixfields Area Action Plan/ Local Development Framework and their wider development aspirations.

4. Options and Evaluation of Options

- 4.1 The principal options (subject to confirmatory Counsel's advice) are as follows:

- (a) *Refuse to grant any variation to the present Lease arrangements.*
It is unlikely that any hotel operator will be willing to take a long sub-lease and pay a large capital sum to develop a hotel, if the sub-lease has to be consistent with the present terms of the Lease. This could mean that NTFC may not be able to reap the benefits of further investment in the Stadium arising from a hotel development. This Council would not obtain any share of a capital sum received by NTFC.
- (b) *Agree a variation of the Lease agreement in accordance with the principles set out above.*
This would enable NTFC and other sporting bodies to benefit from investment in the Property. It would also allow this Council to share in the capital sum released, to help support capital programmes of benefit to Town. It would trigger a liability for a fee payable to the Council's external valuation advisors – Gerald Eve, based upon the sum received from NTFC (less sums already paid to Gerald Eve and a sum already due to the Council from NTFC).

(c) Agree the variation of Lease at less than the full value to the Council that could be achieved.

However, the Council does have duties under Section 123 of the Local Government Act 1972, to sell land for the best consideration reasonably obtainable. Under the terms of the fee basis agreed with Gerald Eve, a fee would still have to be paid on the same basis as (b) above – but based upon a full valuation of what could be payable to this Council rather than the lower price paid by NTFC.

5. Resource Implications (including Financial Implications)

5.1 The primary result of negotiating an acceptable variation of the existing contractual arrangement is to enable further investment in Sixfields Stadium. It would also generate a capital receipt for this Council to help fund developments for the people of Northampton. In the absence of any agreement a sub-lease would almost certainly not be granted and no capital would be raised for either NTFC to spend on the Stadium or for this Council.

5.2 The revenue implications of not agreeing a variation of the existing contractual position are that the external fees already paid by this Council in respect of valuation advice would have to remain as revenue liabilities, save for a limited undertaking from NTFC towards the Council's costs given previously.

5.3 There would be further fees payable to Gerald Eve Surveyors in the event of an agreed disposal, which the Council would seek to recover from NTFC as part of the terms agreed.

6. Risk and Opportunity Issues

6.1 The risk of not agreeing any variation of the present contractual position is that the improvement of the Stadium would be less likely to occur. Similarly, the Town would not benefit through being able to share in the capital generated from a hotel development.

6.2 The opportunity that exists is to lever in funds from an external third party to improve Sixfields Stadium and to also generate capital to help support the Council's wider investment programme in the Town.

7. Consultees (Internal and External)

Internal

Legal, Sports Development, Regeneration & Growth

External	Northampton Town Football Club
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8. Compliance Issues

A: How Proposals Deliver Priority Outcomes

Recovery Plan
N/A
Corporate Plan

B: Other Implications

Other Strategies
None

Finance Comments

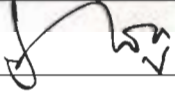
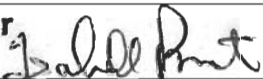

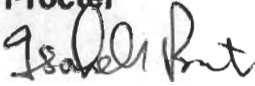
Legal Comments
<p>Depending upon which option is chosen, the Council will need to ensure that it complies with its obligations under Section 123 of the Local Government Act 1972.</p> <p>Councils have powers to dispose of land. However, the disposal must comply with the duty to obtain the best consideration reasonably obtainable.</p> <p>Councils have powers to dispose of land at an under value, subject to criteria, covered by relevant regulations and require the specific consent of the Secretary of State where the under value is over £2,000,000. This is a complex area and once negotiations are concluded and if appropriate an assessment will be made on the implications of Section 123 of the 1972 Act.</p>

9. Background Papers

Title	Description	Source
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Lease dated 13 April 2004 made between Northampton Borough Council and Northampton Town Football Club Limited	Lease of Land at Sixfields, Northampton.	
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Name	Signature	Date	Ext.
Author	Simon Dougall 	26/6/07	8177
Corporate Manager	N/A		
Director	Isabell Procter 	26/6/07	
Monitoring Officer or Deputy (Key decision only)	Francis Fernandes 	27/06/07	7854
Section 151 Officer or Deputy (Key decision only)	Isabell Procter 	26/6/07	