

**CABINET**  
**26 May 2022**

**FLEET DOWN UNITED FOOTBALL CLUB - CONSULTATION ON  
OPEN SPACE DISPOSAL – NOTICE OF INTENTION TO LEASE  
LAND HELD FOR THE PURPOSES OF PUBLIC OPEN SPACE**

**Heath, Princes, Maypole & Wilmington**

1. Summary

- 1.1 To consider representations following a public consultation related to proposals for land at Heath Lane made by Trustees of the Fleetdown United Football Club and to determine accordingly.

2. RECOMMENDATIONS

- 2.1 That Cabinet considers the representations made in relation to the Council's notice of intention to dispose (through the grant of a further lease) of approximately 3.1 hectares of land at Heath Lane to Fleetdown United Football Club, and that Cabinet either:
- (a) confirms (through the grant of a further lease) the disposal of land at Heath Lane edged red and partly cross-hatched, on the plan at Appendix B to the report; or
  - (b) not grant a further lease in relation to land at Heath Lane described in para.2.1(a)
- 2.2 That Cabinet considers the representations, including the submission of a petition (as detailed in Appendix A to the report), made to the Council in relation to proposals by the Trustees of Fleetdown United Football Club to request landlord consent for the erection of a fence and that Cabinet either:
- (c) grants landlord consent for the erection of a fence to prevent access to the site on non-match days (subject to appropriate planning consent(s)); or
  - (d) not grant landlord consent for the erection of the fence.
- 2.3 That, should Cabinet be minded to approve the grant of a further lease of the Heath Lane open space land and/or the erection of a fence, authority be granted to the Director of Growth and Community, in consultation with the Head of Legal Services, to approve the heads of terms of the lease to the Trustees of the Fleetdown United Football Club.

3. Background and Discussion

- 3.1. The Trustees of the Fleetdown United Football Club have obtained external funding from FA/Sport England for the upgrading Club facilities and maintaining/improving the football pitches. The grant of funds is

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conditional on the Club having an unexpired lease term of at least 25 years. The current lease expires in 2037 (15 years).

- 3.2. Whilst informal discussions with the Club have been ongoing, no formal plans have yet been drawn up by the Club in respect of improvement proposals. However, in broad terms, the funding is likely to be put towards an extension/refurbishment of the changing facilities (to include separate ladies changing rooms/showers), improvements to the bar facilities/clubhouse, extension of the mini pitch compound to provide additional all-weather playing area and improvement of pitch side facilities, notably providing team dugouts to the 1<sup>st</sup> team pitch and surrounding this pitch with a spectator rail.
- 3.3. The Club would also like to enclose the main pitches by erecting a fence between the field access gate (from Heath Lane) and the fences of properties in Roseberry Gardens backing onto the pitches. The plan at Appendix B shows the proposed extension to the demised (leased) area edged red, together with the approximate line of the fence cross-hatched. Fencing works are outside the remit of the grant funding and the Club will have to finance this itself.
- 3.4. The statutory process governing the intention to dispose of open space land requires public notice of the proposal to be advertised in a local newspaper circulating in the area where the land is situated for two consecutive weeks and any objections to the intended disposal to be duly considered by Cabinet.
- 3.5. On 17 and 23 March 2022, the Council placed a public notice in the local newspaper (the Gravesend and Dartford Messenger) advertising the proposal to dispose (through the grant of a lease), of approximately 3.1 hectares of land at Heath Lane, held for the purposes of public open space, to the Club, with a deadline of 8 April 2022 for responses. A corresponding notice was placed on the Consultation section of the Council's website. Following significant public interest in the subject matter, further public notices were placed in the local newspaper on 14 and 21 April 2022 with a deadline of 25 April 2022 for responses. The notice on the Council's website was also updated to reflect the extended deadline.
- 3.6. A total of 414 responses were received to the consultations, of which 323 opposed the proposal, 91 were in favour and 10 agreed with the lease but not the fence. One petition was submitted by a number of local residents (Appendix A to the report refers).
- 3.7. The objectors can be divided into 4 main categories:
  - (1) individuals who are passionate about preserving long-standing public rights to roam on the Heath Lane open space land and against any loss of public open space (many local residents have been using the land for many years dating back as far as 1937);

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- (2) dog walkers, comprising mostly local residents from the adjoining the Fleetdown area and from neighbouring estates (many objectors cited use of the playing fields on a daily basis for exercising dogs);
  - (3) individuals and families utilising the open space land for recreational purposes (this would include a wide range of sporting activities but also walking and family gatherings/picnics and the like);
  - (4) individuals who whilst not objecting to the use of the Heath Lane open space land by the Club, are concerned about intensification of the use and in particular, physical development of the Club in terms of additional buildings, possibly a stadium and floodlighting.
- 3.8. Those in favour of the proposal include existing members of the Club, past members/players involved in the Club, a range of local residents who enjoy spectating and/or are generally in favour of promoting football and sporting activities generally in the Fleetdown area and those whose children benefit from the Club's facilities such as coaching/playing football.
- 3.9. By far the largest cause for complaint has been the proposal to fence off the larger part of the playing fields to the exclusion of the public, a so-called 'incursion fence'. The Club feel this is necessary to protect the playing surface and improve security following the proposed substantial investment in the facility. Whilst the Club is at pains to stress that the vast majority of dog walkers/recreational users are responsible and considered 'friends' of the Club, there has long been an element of unsociable and sometimes destructive behaviour from members of the public, the consequences of which the Club have to deal with on a daily basis. This includes walkers not clearing up dog mess, littering, which includes unsanitary items like drug paraphernalia, barbecues causing scorch damage to the playing surface, rowdy behaviour/intimidation of Club staff, the striking of golf balls in a public area, motorbike/quad bike riding across the pitches and vandalism of Club equipment or the pitches themselves.
- 3.10. A number of the objections were made on the misunderstanding:
- (a) that the Council had entered into discussions with the Club over the terms of the lease, including the grant of landlord's consent for the erection of the fence;
  - (b) that the public notices referred to in para.3.4 above, were in connection with a planning application for the fence and/or the erection of stadium facilities/floodlights.
- Officers advise that no discussions have been had with the Club over the lease terms, no landlord consent granted for the erection of the fence and should a planning application come forward, this will be dealt with by the Planning Department in the usual manner.
- 3.11. The Council has made the Club aware that notwithstanding landlord's consent (should that be forthcoming), the Club will be required to comply with the usual planning process in respect of any new

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development/qualifying structures proposed. This will include the incursion fence in its currently envisaged form.

- 3.12. Cabinet is requested to consider the representations, as summarised in para. 3.7 above, including the submission of the petition (Appendix A), made to the Council's notice of intention to dispose (through the grant of a lease) of approximately 3.1 hectares of land at Heath Lane, held for the purposes of public open space, to the Trustees of the Fleetdown United Football Club, and that it either confirms the disposal of the Heath Lane open space land edged red and partly cross-hatched on the plan at Appendix B to the report; or not approve the disposal of the Heath Lane open space land.

Further, should Cabinet be minded to approve the disposal of the Heath Lane open space land, authority be granted to the Director of Growth and Community, in consultation with the Head of Legal Services, to approve the heads of terms of the lease to Fleetdown United Football Club, including any landlord consent (if forthcoming), as outlined in para. 2.2(c) above.

4. Relationship to the Corporate Plan

HW 1.& HW 2.of the Corporate Plan 2021-2023 pertaining to the increasing opportunities for participating in sporting, cultural & leisure activities and reducing overall health inequalities in the Borough refer.

5. Financial, legal, staffing and other implications and risk assessments\*

Financial Implications	There are no immediate cost applications for the Council arising from the creation of the new lease/grant of landlord's consent. The Council's professional cost in this regard would normally be borne by the applicant.
Legal Implications	The statutory process governing the disposal of public open space requires public notice of the proposal to be advertised in a local newspaper circulating in the area where the land is situated for two consecutive weeks and any objections to the disposal to be considered by Cabinet. [Section 123(2A) of the Local Government Act 1972]
Climate Change Implications	The land demised to the Club will be larger, to incorporate the two main pitches and areas around the existing mini pitches. Control over these areas will be ceded to the Club and there may be some loss of green space to an

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	expansion of the mini pitch compound (plans not yet submitted).
Staffing Implications	None
Administrative Implications	This will be dependent upon the division of maintenance responsibilities for the additional green space. Normally under a full repairing lease, the tenant has responsibility for maintenance of anything within the demise, which would now extend to the pitches and green areas within the fence line.
Risk Assessment	<p>The fencing of the main pitches and surrounding green space potentially restricts access, which is currently enjoyed by local residents/the public.</p> <p>Amelioration measures to include clearance of hitherto inaccessible areas of the retained open space can be provided to ensure no overall loss of recreational area.</p> <p>The restriction of access to part of the site will take away rights previously enjoyed by local residents and members of the public at large and this may expose the Council to legal challenge.</p>

6. Details of Exempt Information Category

Not applicable

7. Appendices

Appendix A – Summary of Petition

Appendix B - Plan

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BACKGROUND PAPERS

<u>Documents consulted</u>	<u>Date / File Ref</u>	<u>Report Author</u>	<u>Section and Directorate</u>	<u>Exempt Informatio n Category</u>
		Matthew Hill (01322) 343434	Property Services Team/Growth & Community	N/A