

## Agenda Item

**REPORT OF**    **Head of Communities and Place**

**To:**                **Community and Resources Committee**

**Subject:**        **Leasehold disposal of part of the Sports Ground, Kingsley Rd, Bideford**

**Date:**            **November 2022**

**Reference:**

**PURPOSE OF REPORT:** To consider a new leasehold interest of 25 years of the Sports Ground, Kingsley Road, Bideford to Bideford AFC to replace the existing Licence

### 1. INTRODUCTION

Bideford AFC currently occupy the Sports Ground at Kingsley Road under a 20 year Licence that expires in January 2026. The Licence does not have adequate security to enable the club to apply for funding for investment in the Sports Ground hence the club would like to enter into a 25 year lease with TDC. This is separate to the land that the Robins Nest sits on which is held by the club on a 99 year ground lease expiring February 2077.

The Sports Ground forms part of the land held under the Declaration of Trust dated 6<sup>th</sup> July 2009 where the Council covenanted with the National Playing Fields Association (now Fields in Trust - FIT) not to dispose of any of the land without its consent. The Council also agreed that it would allow the land to be used in perpetuity as a public playing field for the benefit of the public.

### 2. REPORT

The topic of a lease from TDC to Bideford AFC to replace the existing licence is a long running saga as members are fully aware. The main sticking point has been the club's insistence on either a 25 year lease with the right to renew for a further 25 years or a straight 25 year term with security of tenure conferring a contractual right to renew. 2 points have hindered the ability to grant such a lease. First it is not generally TDC policy to grant a 25 year lease with security of tenure. Second, FIT, do not accept leases with security of tenure.

This situation existed for a number of years with periodic negotiations running into a brick wall. A meeting with the club in July 2022 proved the turning point with the club's acceptance that it was not in the gift of TDC to grant a lease with security of tenure and that the club would settle for a 25 year full repairing and insuring lease without security of tenure.

It was also agreed that the Robin's Nest lease will remain in place whereas previously there had been discussions around a surrender and regrant co-terminus with any new Sports Ground lease – something the club had resisted. TDC has given assurance to the club that it will be minded to renew the Sports Ground lease at the end of the 25 year period as the club had concerns that it could be left with the Robins Nest lease and no lease on the Sports Ground. Clearly a less than desirable situation for them – a clubhouse but no pitches to play on. The club now accepts that this assurance is the best that TDC can offer – it will not be included in the lease and will not form part of the application to FIT. Given the land is subject to FIT there is no development opportunity and no obvious reason not to renew the lease.

Agreed Heads of Terms now provide the following principle terms (please see attached Heads of Terms for full details):



Term – 25 years

Rent - £1pa

Repair and Maintenance – Full repairing and maintenance obligation for the club

Use – playing fields and ancillary accommodation for the use of Bideford AFC as tenant and requiring the facilities to be made available for public use.

Condition - all income received by the tenant to be reinvested in the facilities.

Demise – as shown on the plan in the Heads of Terms and will exclude the skate park and land to the north of the skate park that forms part of the current licenced area. Will also exclude the Robins Nest and surrounding car parking which are both contained in the existing Robins Nest lease.

Even with a nominal rent of only a £1, TDC will be financially better off than under the current licence as set out in Financial Implications below. The rationale for charging a nominal rent is that it will give the club more money to invest back in the facilities, enables TDC to insist on the club taking on a full repairing lease and in part is a trade off for the provision of the facilities for the community.

An application will need to be submitted to FIT for consent in accordance with the Declaration of Trust and FIT rules on disposal. FIT will expect to see access to the general public when the club is not using the Sports Ground. Details around access and community involvement do not sit well in a lease so a Service Level Agreement (SLA) will sit alongside the lease and be referenced in the lease. The SLA will set out when the club is using the facilities and when they are available for public use and how they can be booked.

The SLA will also allow TDC a level of oversight with the inclusion of a Review Committee consisting representation from both TDC and the club as well as a Ward Councillor. The Review Committee to meet annually as set out in the attached draft SLA.

### 3. IMPLICATIONS

#### Legal Implications

Conveyancing to agree lease and other associated documentation, application to FIT

#### Financial Implications

The current Licence fee is calculated annually by taking the previous year's running costs, dividing by 365 to give a daily rate and then multiplying this daily rate by the number of matches due to be played by Bideford AFC in the forthcoming season.

For 2022/23 the figures are as follows:

2021/22 costs to TDC - £36,825 therefore daily rate of £100.89.

2022/23 number of matches (figure provided by club) – 24.

Licence fee (daily rate \* number of matches) = **£2,421.36**

Other income – 3 Telecoms leases. All income split 40% to TDC and 60% to Bideford AFC

1 – Lease to EE. Passing rent £8,441. TDC share - **£3,3376.43**. Currently negotiating new lease as part of relocation of equipment. Annual rent under new lease £1,000pa

2 – Airwave Solutions. Lease expired March 2019. No incentive to agree new lease. TDC share of passing rent is **£5,421**. Likely to reduce by approximately 50% on renewal due to impact of new Telecommunications Code

3 – Cornerstone/O2. Expires January 2042. TDC share of rent - **£3333.20**

Summary:



TDC outgoings - £36,825  
Income - £14,551.99

### **TDC Net Outgoings - £22,273**

This is only a one year snapshot and the 2021/22 figures were skewed by Covid however year on year TDC outgoings are significantly higher than the income received – this year's figure is broadly in line with previous years. Although TDC will lose the income from the telecoms leases as they will effectively become tenants of the club and therefore the club will benefit from all the income, this income significantly reduces when the leases in 1 and 2 above complete/renew. The benefit of granting the lease to the club and handing over the cost of maintenance significantly outweighs the loss of income from the telecoms leases both financially and in the freeing up of officer and maintenance team time.

#### Human Resources Implications

Very significant saving in Grounds Maintenance and Property teams time once the lease to the club has completed and all maintenance becomes the responsibility of the club.

#### Sustainability Implications

n/a

#### Equality/Diversity

Through the Service Level Agreement, the club will be actively encouraged to ensure that the facilities are available for all members of the community

#### Risk Management

n/a

#### Compliance with Policies and Strategies

Will help with the priority of promoting active and healthy lifestyles under the Communities, Health and Housing theme as well as delivering clean, well maintained and managed streets, parks and open spaces under the Our Environment our Future theme.

#### Ward Member and Leader Member Views

## **4 CONCLUSIONS**

The proposed lease will allow the club to obtain funding from bodies such as Sport England and the FA towards the improvement of the facilities to the benefit of both the club and the community. It will bring a long running saga to an end which has taken up a considerable amount of officer time over the years and will hand over all maintenance responsibility to the club. Financially there will be a net saving for the Council.

The existing licence is not tightly drafted and does not provide sufficient detail on maintenance and repair responsibility or on the charging mechanism to TDC's detriment. A well drafted lease will remedy this imbalance.



The terms of the lease and the SLA will allow for greater community use and minimise the perception that the Sports Ground is for the sole use of the club.

## **5. RECOMMENDATIONS**

Members approve the proposal for the leasehold disposal of the Sports Ground, Kingsley Road as detailed in this report and give authority for the issue of a draft lease and the application for FIT consent and as and when FIT consent is given, the completion of the lease.

## **SUPPORTING INFORMATION**

Consultations: Senior Management Team

Contact Officer: Nick Argles

Background Papers: Heads of Terms, draft Service Level Agreement

