

30 June 2015

Policy, Finance and Resources Committee

Hutton Football Club

Report of: *Adrian J Tidbury Estates and Valuation Surveyor*

Wards Affected: *Hutton East*

This report is: *Public*

1. Executive Summary

- 1.1 This report considers the recommendation of the 27th March 2015 Asset and Enterprise Committee which dealt with the lack of rent reviews prior to the provision of a new lease as agreed by the 23rd January 2013 Asset Panel

Hutton Football Club had put forward an offer of £900.00 per annum going forward until the lease expires in 2019

That the offer from Hutton Football Club be submitted to the next Finance and Resource Committee with a recommendation that it should be accepted

2. Recommendation(s)

- 2.1 That the recommendation of the 27 March 2015 Asset and Enterprise Committee to accept the offer of £2,000 back rental and £900 per annum going forward from Hutton Football Club until the lease expires in 2019.**
- 2.2 That the debt of the non crystallised back rent amounting to approximately £13,000 be written off**
- 2.3 That negotiations be commenced concerning the provision of a new lease to the Hutton Football Club having regard to the terms agreed by the 23 January 2013 Asset Panel and revised in this report.**

3. Introduction and Background

3.1 Members will be aware that following the decision of the 23 January 2013 Asset Panel, officers have been in negotiations with Hutton Football Club ('the Club') for the provision of the new lease.

3.2 The decision of the 23 January 2013 Asset Panel was as follows:

- That the Panel Committee recommends to the Policy, Projects and resources Board that the Council agrees in principle to a new lease being provided to the Hutton Football Club, subject to the points raised above, for a period of 25 years, to give the Club confidence to be able to move forward with their proposals.

3.3 The points raised in the report were:

- Proposals for replacement facilities on the site would require planning permission and the Club should commence pre application discussions with the Council to move the scheme forward and there would need to be consultation around the proposal.
- Any land transaction would be subject to planning permission being obtained.
- The Club being able to attract funding for the proposal.
- A business case was prepared and submitted to the Council for consideration.

3.4 The new lease would be subject to:

- the negotiation of the deal, including an appropriate rental for the site - this would take into account the business case, community benefits generated and any business elements of the proposal.
- Assurance about community use

3.5 Since that meeting a significant amount of correspondence has taken place with the Club regarding the provision of the new lease to fulfil the requirements of the Asset Panel culminating in the decision of the 27 March 2015 Asset & Enterprise Panel.

4. Issue, Options and Analysis of Options

4.1 Prior to any new lease by negotiated with the Club, the Council must first deal with any remaining issues outstanding from the existing lease.

- 4.2 The current lease is dated 25th December 1984 with rent reviews at 7 year intervals with the first 7 years at £1 p.a., the second 7 years at £60 p.a. and the remaining 7 year periods at market rent. However, no rent reviews have been yet been carried out and therefore need to be resolved before negotiations can take place on a new lease. Current negotiations with the Club concern payments of the back rent and rental going forward for the current lease.
- 4.3 The offer by the Club was presented to the Asset and Enterprise Committee on 27 March 2015 by the Chair and is significantly lower than best value on the site.
- 4.4 Members will be aware that valuation carried out by Bidwell's of the site was for between £1,200 and £1,400 per annum.
- 4.5 The back rent which can only be an estimated value and approaches the sum of £15,000
- 4.6 The recommendation of the Asset and Enterprise Committee was to accept the sum of £2,000 back rent and £900 per annum for the remainder of the lease term or until a new lease is negotiated under the terms of the 23 January Asset Panel.
- 4.7 Members will be aware that the 27 March 2015 Asset and Enterprise Committee agreed new policies under the report Asset Acquisition, General Disposal and Disposals at less than Best Value.
- 4.8 The policy shown in Appendix C sets out the statutory background to property disposals
- 4.9 Para 2.1 of the policy sets out section 123 of the Local Government Act 1972 in that Councils, except with the expressed consent of the Secretary of State, cannot dispose of land (other than by way of a short tenancy i.e. grant of a lease term not exceeding 7 years) for consideration less than best that can be reasonably obtained in the market.
- 4.10 Para 2.2 of the policy sets out General Disposal Consent (England) 2003 which gives local authorities greater freedom to dispose of any interest in land at less than best consideration without specific consent to the Secretary of State. Under this General Disposal Consent local authorities may consider disposal at a reduced price if the purpose for which the land is to be disposed of is likely to contribute to the promotion or improvement of the economic, social or environmental well being of its area.

- 4.11 The policy sets out the criteria to be met when considering a disposal of less than best consideration as well as the appropriate term of the lease and members will be aware that the Asset Panel resolved to approve a 25 year lease which is now contrary to the policy as set out in para 4.5 of the policy in that the funding body requires a longer lease term.
- 4.12 Whilst the rent arrears may be significant to the Club, the Committee is at liberty to consider a system of staged payments leading to full payment being accomplished over a number of years which would not fall foul of any consideration of discount and remain consistent across the Borough.
- 4.13 In addition, the assessment of arrears of rent are fixed by the lease for the first 14 years but in the 3rd and 4th 7 year period, are of course subject to estimation using the current valuation as the starting point.
- 4.14 Clearly Members will be aware of the offer made by the Club and its shortfall in comparison to the valuation by Bidwells.
- 4.15 Should Members decide to accept the back rental offer of £2000 the Committee needs to follow due process for the writing off of the remainder of the unpaid debt.

5. Consultation

- 5.1 No formal consultation has been undertaken regarding the proposed refurbishment

6. References to Corporate Plan

- 6.1 Value for Money: policies that invest in key services to create opportunity for all, provide better value for Brentwood's taxpayers and enhance the Borough's infrastructure whilst modernising and transforming Brentwood Borough Council. We will re-prioritise and focus our resources and be innovative in our approach.
- 6.2 Our Borough: Policies which promote our environment, support sustainable growth, and safeguard our high quality environment including heritage and countryside. We will provide responsive, accessible and forward thinking services for vulnerable residents, supporting people back into work and providing good quality housing making Brentwood our residents' Borough of Choice.

7. Implications

Financial Implications

Name & Title: Chris Leslie, Finance Director

Tel & Email 01277 312542 / christopher.leslie@brentwood.gov.uk

- 7.1 The writing off of back rent is a potential loss of income to the General Fund of £13k.

Legal Implications

Name & Title: Christopher Potter, Monitoring Officer and Head of Support Services

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- 7.2 The legal implications are set out in the body of the report.

8. Background Papers (include their location and identify whether any are exempt or protected by copyright)

None

9. Appendices to this report:

- Appendix A – Valuation Report from Bidwells (Exempt)
- Appendix B - Estimated Rent Arrears (Exempt)
- Appendix C - Policy - Asset Acquisition, General Disposal and Disposals at less than Best Value

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