

WARLEY PLAYING FIELDS - JOINT USE AGREEMENT

AN AGREEMENT made on the day of one Thousand Nine Hundred and Ninety-eight BETWEEN BRENTWOOD BOROUGH COUNCIL of Council Offices Ingrave Road Brentwood in the County of Essex (hereinafter called "the Council") of the one part and MICHAEL RICHARD JAMES TRETT of Brentwood County High School Shenfield Common Brentwood Essex CM14 4JF (Head Teacher of Brentwood County High School) and COLIN GODFREY ANTHONY of 28 Shenfield Place Brentwood Essex CM14 4JF (Chairman of The Board of Governors of Brentwood County High School) as duly authorised representatives of the BRENTWOOD COUNTY HIGH SCHOOL (hereinafter called "the School") of the other part.

WHEREBY IT IS AGREED as follows:-

Ownership

1. (a) The School's Land Land shown edged and hatched green on the attached plan ("the plan")
 - (b) The Council's Land Land shown edged and hatched red on the attached plan
 - (c) Essex County Council's Land Land shown edged and hatched orange on the plan and the access and parking area shown edged and hatched blue on the plan
2. Collectively the whole area as edged in brown is known as Warley Playing Fields (hereinafter known as "the Site").
 3. The pavilion is shown for identification purposes only edged purple on the plan.

Maintenance of the Facilities

4. The Council shall undertake any maintenance necessary to maintain all of the football pitches and cricket squares on the site in a playable condition, including grass cutting, seeding, fertilizing, marking and the supply, maintenance and erection of goal posts, nets, corner flags and protective barriers around cricket squares.

5. The Council shall undertake all maintenance works to the hard porous surface to maintain it in a playable condition, including the surround fencing and gates, to include

brushing, top dressing, marking and supply and erection of hockey goals and 5 a side football goals and nets.

Should it become necessary to undertake work which is more than legitimate maintenance works to keep the hard porous surface in a playable condition, these shall be considered to be capital works.

6. The Council shall undertake all maintenance works to the floodlights necessary to keep the same in working condition, including all maintenance checks, bulb and fuse replacements.

7. The Council shall undertake at its own expense all maintenance works on the playground, including all inspections, repairs, spares, cleaning\painting and replacement of equipment as necessary.

8. The Council shall undertake at its own expense all maintenance works to the trim trail, including all inspections, repairs and replacement of equipment as necessary.

9. All maintenance works to the car park and other joint use access areas shall be undertaken by the Council. The cost for any works required to be apportioned as set out in Table 1 hereof

10. All maintenance works to the pavilion shall be undertaken by the Council. The costs for any works required to be apportioned as set out in Table 2 hereof

Alteration to the Facilities

11. None of the facilities shall be changed or replaced without the prior agreement of both parties

Maintenance of Other Areas

12. The Council shall undertake all maintenance works to all other areas on the site not specifically referred to above, including grass areas (including those areas designated for sports during their respective close season), shrubs, beds, hedges, woodland, trees and ditches, as often as deemed necessary by and to the satisfaction of the Council

13. The Council shall also undertake maintenance works to all underground pipes, conduits, installations or plant within the boundaries of the Site which are not the responsibility of the Statutory Authorities, the costs for any works required to be apportioned as set out in Clauses 33 to 39 hereof

Wardens

14. The Council shall be responsible for providing Wardens during periods when the hard porous area is open to the public, and at other times when the football and cricket areas are in use. Duties shall include locking and unlocking of the pavilion, allocation of changing rooms, control of floodlights, cleaning of pavilion and other duties as specified by the Council. Security arrangements and requirements for the building shall be as set by the insurance company that insures the building.

15. The School shall be at liberty to request warden attendance during periods of non-public use when their own activities may be in progress at its own expense

Letting Arrangements

16. The Council shall be responsible for lettings of the Site including football pitches, cricket wickets, cricket nets and the hard porous area. This shall include all administrative functions and provision of appropriate stationery.

17. The policy on lettings shall be as determined by the Council regarding maximum number of games per season, allocation of pitches, squares to teams, opening times for use of the various facilities, and the policy on concessions

19. Allocation of pitches or squares for School use shall be via the Council as set out in paragraphs 21 to 25 below. The School shall be notified which pitches or wickets have been allocated to them on any particular date, via Council office staff or a warden on site.

20. The Council shall be responsible for the promotion of the Site and its facilities as it sees fit.

Use of Facilities by the School

21. Facilities:- The hard porous area, the football pitches, the cricket square on the area edged green, together with the cricket nets at the site, (provided that for the playing of football, cricket and rugby, the School shall use, if available, the Council pitches and square at King George's Playing Fields). These facilities can be provided with changing and showering if required.

22. The School shall have exclusive use of the facilities during term time from 9.00am to 5.45pm on Mondays to Fridays and from 9.00am to 12.45pm on Saturdays for the purposes of education within the teaching curriculum and associated extra curricular activities, subject to any agreement between the parties allowing the Council use of the facilities if not required by the School

23. At the beginning of each school term the School shall notify the Council of the times when pitches or wickets are required for regular teaching sessions. For matches where marking out or specific grounds preparation is required, the School shall give as much advance notice as possible, and in any case, no less than 7 days prior to the match taking place. In the case of less notice being given than required, the Council cannot guarantee to mark out or prepare the requested sports facilities.

24. The Council reserves the right to switch teaching sessions or matches to the site in the event that pitches or wickets at King George's are unplayable or unavailable for whatever reason. In such an instance, the Council will give as much advance notice as possible.

25. The Council will have absolute discretion to determine whether or not any of the various sports facilities are suitable for play at any given time, and should it be considered necessary to cancel usage, as much notice will be given as possible.

Public Accessibility / Usage of the Site

26. The whole Site, with the exception of the hard porous area which shall remain locked except during periods of use, shall be publicly accessible at all times.

27. Neither the School nor the Council shall erect any barrier to permanently enclose or deny public access to any part of the Site (with aforementioned exception). This does not preclude the use of temporary barriers which may from time to time be required for whatever reason by the Council or the School

Bye-laws

28. It shall be the responsibility of the Council to obtain any bye-laws pertaining specifically to the Site, in accordance with existing bye-laws relating to other areas of public open space under the control of the Council.

29. Both the School and the Council shall agree on the content of the bye-laws before formal application for the granting of these is made.

Income from the Hire of the Sports Facilities or Grounds

30. The Council shall retain all income received through the hiring out of the football pitches, cricket wickets, cricket nets and the hard porous area. It shall also retain income received from the hire of any of the pavilion facilities and use of the grounds for any sports related purpose whatsoever.

31. In the case of non-sports related usage on the area of land edged green, the Council shall notify the School supplying details of the proposed usage giving as much

notice as possible. The School shall consider the proposal and give their agreement or otherwise within fifteen working days of receipt of the proposal. Should no reply be received within the stipulated period, the Council shall be entitled to use its discretion regarding the proposed usage. In the event of the proposal being implemented any income received shall be retained by the Council.

32. In the event that income in any one year generated from the letting of sports facilities on the area edged green exceeds the figure the School would pay to the Council for maintenance costs for the sports areas, grounds, wardening and pavilion as apportioned under this agreement for that same year, the School shall be entitled to fifty percent of the difference between the income and the maintenance cost figures. This shall be paid either directly or by reduction of the maintenance charge the School would pay to the Council.

Maintenance Costs and Payments

33. The grounds maintenance costs shall be apportioned in accordance with the attached Table 1.

34. The costs of providing the wardening/cleaning shall be apportioned as per Table 2.

35. The costs involved in maintaining the pavilion and floodlights shall be apportioned as per Table 2.

36. Payment of the service bills (with the exception of gas which shall be paid by the School) shall be made by the Council and shall be re-charged to the School (or vice-versa) as apportioned in Table 3.

If necessary, transfers of the bills to the Council from the School shall be effected.

37. Payment of buildings insurance and rates bills shall be made by the School and recharged to the Council as apportioned in Table 3.

38. No charge will be made by the Council to the School for football, rugby, cricket or use of the hard porous area, when these facilities are used with out changing facilities. Should changing/showering facilities be required, these will not be charged for if they are used only on an occasional basis. Frequent or regular use will be charged for at the rates as set by the Council in its annual charges.

39. Should the School require provision of additional facilities e.g. running track, rounders pitches, these will be charged for at the rates as set by the Council.

Accounts

40. On an annual basis, and within two months of the close of the Council's end of financial year, both the School and the Council shall produce accounts indicating income and expenditure appertaining to the Site.

41. Subsequent to the agreement to these accounts by both parties, charges from the Council to the School, and vice-versa if appropriate, shall be levied and paid.

Value Added Tax

42. If VAT is payable on any element appertaining to the Site, then either or both parties shall charge and/or pay such at the appropriate rates.

Capital Improvements/Works

43. Should at any time in the future it be proposed to develop or alter the Site, or replace existing facilities, such that substantial capital investment in excess of £5,000.00 would be required, all parties shall be notified in writing of the proposals. Such proposals may be discussed, if deemed appropriate, by a meeting or meetings of representatives of the various parties to determine if there is a wish to proceed.

44. In the event that capital improvements are agreed upon, this Agreement may be subject to re-negotiation as appropriate.

Competitive Tendering

45. Insofar as the Council is currently required under law to subject grounds maintenance works to competitive tender, the maintenance on the Site will be included in any future Grounds Maintenance Contracts let by the Council.

46. Should the School, at any time, consider the costs it would have to pay under this Agreement as a result of the Tender accepted by the Council, to be unacceptable, the School may then elect to subject the areas under its ownership to a separate quotation. The obtaining of such quotation shall be entirely at the expense of the School and should the School decide to accept this alternative quotation, then the cost apportionment element of this Agreement shall be declared invalid and be subject to re-negotiation.

Access

47. Vehicular access to the Site shall be over the area hatched and bordered blue on the plan. The School, the Council and Essex County Council, as well as members of the public, shall have the right to pass and repass over this area.

48. The School shall have right of access to the pavilion for whatever purposes, provided that the access requirement is notified to the Council in advance and a mutually acceptable time for access is arranged.

External Influences

49. In the event that the terms of this agreement in whole or in significant part are amended by statute the agreement may be subject to re-negotiation.

Security

50. Whilst the School is not in possession of keys to any buildings, or part of buildings, locks or any other securing devices on the Site, the Council shall remain responsible for security. In the event that the School is supplied with keys to any part of the Site, security arrangements must be reviewed to ensure that security is not compromised.

Miscellaneous Items

51. Betting and gaming shall not be permitted on any of the premises.

Termination

52. This agreement shall not be terminable by either party except under the following circumstances:

- (i) Either party giving notice to terminate to the other party of not less than one year
- (ii) External influences as described in Clause 49.
- (iii) Capital improvements as described in Clause 44.
- (iv) Default in payment of the maintenance sums by either party.

Arbitration

53. In order to ensure that there is just cause for any termination by either party, there shall be a right of appeal to an independent arbiter who will determine if any termination is just. The arbiter shall be agreed upon in the first instance by both parties, but in event of agreement not being reached, the arbiter shall be the Director of the Institute of Leisure & Amenity Management (ILAM). His decision shall be final and binding on both parties.

THE COMMON SEAL OF
BRENTWOOD BOROUGH COUNCIL
was hereunto affixed in the presence
of:-

MAYOR

ASSISTANT TOWN CLERK

SIGNED by the said
MICHAEL RICHARD JAMES TRETT
on behalf of
BRENTWOOD COUNTY HIGH SCHOOL
in the presence of:-

SIGNED by the said
COLIN GODFREY ANTHONY
on behalf of
BRENTWOOD COUNTY HIGH SCHOOL
in the presence of:-

Michael Trett
J. J. Fair
The Old Post House
School Road
Kelvedon Hatch, Brentwood, CM15 0L
Burrar.

[Signature]

MAINTENANCE COSTS ALLOCATION - WARLEY JOINT USE AGREEMENT

Table 1 Sports Facilities / Grounds Maintenance Costs

Cost Element	Quantity	Percentage of Total Annual Sum due to		
		B.C.H.S.	E.C.C.	B.B.C.
		Sports area maintenance on area edged green		50
- football (4no. pitches)	21,975m2			
- cricket square	660m2			
- hard porous area	6,700m2			
Sports area maintenance on area edged red		0	0	100
- football (2no. pitches)	12,225m2			
- cricket square	825m2			
General grounds maintenance on area edged green		50	0	50
- grass cutting general open space	38,885m2			
- tree base maintenance	16no.			
General grounds maintenance on area edged red		0	0	100
- grass cutting general open space	26,515m2			
- tree base maintenance	15no.			
- hedges	477m			
General grounds maintenance on area edged orange		0	50	50
- grass cutting general open space	6,470m2			
- naturalised/wooded area	6100m2			
- tree base maintenance	43no.			
- hedges	90m			
Occasional works to all areas eg fence repairs, ground reinstatement		50	10	40
Joint Access areas (areas edged blue)		33.3	33.3	33.4
- grass cutting general open space	970m2			
- shrub beds	40m2			
- tree base maintenance	10no.			
- car park maintenance	2,330m2			
- footpath maintenance	150m2			
NOTE:	Total area for land edged green (general open space, cricket, hard porous and wooded section)		48,745m2	
	TOTAL AREA FOR 'THE SITE'		92,200m2	

Table 2 Building & Wardening / Cleaning Costs								
						Percentage of Total Annual		
Cost Element						Sum due to		
						B.C.H.S.	E.C.C.	B.B.C.
Building maintenance						10	0	90
Fixed plant maintenance (inc. floodlights, boilers)						10	0	90
Supplies, equipment						10	0	90
Wardening / cleaning costs						10	0	90

Table 3 Service Bills								
						Percentage of Total Annual		
Cost Element						Sum due to		
						B.C.H.S.	E.C.C.	B.B.C.
Electricity						10	0	90
Gas						10	0	90
Water						10	0	90
Telephone						10	0	90
Insurance						10	0	90
Rates						10	0	90
Refuse collection						10	0	90