

BROMSGROVE DISTRICT COUNCIL

CABINET

3RD MARCH 2010

BROMSGROVE ROVERS FC/VICTORIA GROUND - UPDATE

Responsible Portfolio Holder	Cllr Mike Webb
Responsible Head of Service	John Godwin (Deputy Head of SS&C)
Non-Key Decision	

1. SUMMARY

- 1.1 The report sets out the current situation with regard to Bromsgrove Rovers Football Club Limited (in administration) (BRFC), the lease of the Victoria Ground and makes recommendations to ensure that a clear process is implemented to address the future lease implications for the site.

2. RECOMMENDATION

- 2.1 Members are requested to:

- 2.1.1 Note the position relating to the current lease;
- 2.1.2 Note that officers are working on changing the conditions on which the Council holds the Victoria Ground;
- 2.1.3 Request officers to seek expression of interest for the lease of the Victoria Ground to ensure that the Council's community objectives and priorities are met and sustained.

3. BACKGROUND

- 3.1 In 1948 the land which now comprises the Victoria Ground was gifted to the Council subject to the following conditions:
- To let it for a term of 14 years to the Bromsgrove Rovers Football Club ("BRFC") for use by the club as a football field at such rent and subject to such terms as were to be agreed by the Council with a condition to renew the lease for a further 14 years provided certain conditions were met;
 - At the end of a second term of 14 years to further extend the lease on such terms as were to be agreed by the Council and BRFC;
 - At the determination of any further extensions of the lease to BRFC the land is to vest in the Council as an open space for the enjoyment by the public of Bromsgrove.

- 3.2 There have been a number of leases between the Council and BRFC, the most recent of which was for a term of 6 years 364 days at a peppercorn rent which expires on 6 August 2010.
- 3.3 In April 2009 a report was submitted to Cabinet to consider a request from BRFC that the Council grant a new lease to BRFC for 14 years at a peppercorn rent. This request was not granted and as such the current lease expires as per point 3.2. No further proposals have been received from BRFC.
- 3.4 The Council has been formally notified that BRFC is in administration. The Council is one of BRFC's creditors and the current level of outstanding debt to the Council is **£8079.15** which relates to the non-payment of business rates (NNDR) for 2009/10.
- 3.5 The Administrator of BRFC sought approval from BRFC's creditors to enter into a Company Voluntary Arrangement to enable BRFC to continue trading pending sale of its assets to a third party. That proposal was rejected by creditors but accepted by BRFC's members. It has not yet been clearly communicated to the Council by the Administrator how this decision will be implemented. The original proposal for a Company Voluntary Arrangement proposed that the assets of the company be sold to a third party individual but those proposals did not make it clear whether the Administrator was proposing to purport to assign BRFC's lease to the third party or not; no approach has been made to the Council about this.
- 3.6 The current lease contains a number of provisions which might prove to be relevant. First, it prohibits assignment of the lease without the consent of the Council. Secondly it gives the Council the right to forfeit the lease if BRFC enters into either voluntary or compulsory liquidation or if BRFC is disbanded or suspended by the Football Association.
- 3.7 The Council has recently been approached by an interested party who wishes to be granted a lease of the Victoria Ground. The interested party has put forward an initial business case and indicated that it is its intention to make the facilities available to BRFC (whether that is Bromsgrove Rovers Football Club Ltd or a third party who has purchased from that company the right to use the name) and to develop youth and community sport in the local area. However in order to ensure that the Council achieves best value and that the Council's aspirations for the local community as laid out in the Sustainable Community Strategy are achieved in an open and transparent manner, officers' opinion is that expressions of interest should be formally sought.
- 3.8 In order to achieve this objective, officers are proposing to invite all interested parties to submit business cases for consideration that clearly demonstrate links to the issues identified in 3.8, in particular, the benefits for the local community that such an agreement will bring and links to the overall Corporate Objectives and Prioritise with in the Council Plan. Once

received such proposals with then be reviewed and a subsequent report put forward for member consideration based on a preferred option.

3.9 In order to ensure that the Victoria Ground is utilised to the maximum benefit of the community, officers are negotiating with the Charity Commission on the extent to which the terms on which the Council holds the land may need to be varied to make it clear that the land can be used for the benefit of the inhabitants of Bromsgrove, for example:

- to promote the provision of facilities for recreation or other leisure time for individuals who have need of such facilities by reason of their youth, age, infirmity or disablement, financial hardship or social and economic circumstances; or
- for the public at large in the interests of social welfare and with the object of improving the condition of the life of the said inhabitants; and the advancement of amateur sport (where 'sport' means sports or games which promote health by involving physical or mental skill or exertion).

4. FINANCIAL IMPLICATIONS

4.1 There are no financial implications contained with in the report as all out standing debts are being handled through the administration process. The lease costs associated with the ground have been addressed through the MTFP, however dependant upon the nature of the expression of interest received this situation may need to be reviewed.

5. LEGAL IMPLICATIONS

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

6. COUNCIL OBJECTIVES

6.1 This report does not specifically relate to the Council's objectives, however it will create a process to review the lease of the Victoria ground to ensure that future arrangements support the Objectives and Priorities of the Council and Sustainable Communities Plans.

7. RISK MANAGEMENT INCLUDING HEALTH & SAFETY CONSIDERATIONS

7.1 The main risks associated with in the report are:

- Reputational Damage if it is portrayed that the Council have been responsible for the potential lose of the BRFC.
- Reputational Damage if the new lease agreement does not enhance and improve community football provision/activities, play pathways and/or

deliver the community outcomes contained with in subsequent business plans.

- The new organisation are unable to make the payments on the lease/NNDR's and fall into arrears.

7.2 These risks are being managed as follows:

- Reputational Damage:
 - *Production of a communications plan to cover this matter and to establish the facts that lead to the decision and the benefits that BDC are endeavouring to bring to the local community.*
 - *Establishing a thorough review process for expression of interests and robust lease agreements to ensure that performance and agreed outcomes are achieved.*
 - *The Street Scene & Community department will work with the new organisation, the Schools Sport Partnership, Community Organisations and the County FA to support the production and delivery of development plans so that all teams associated with the club are supported and enhanced where ever possible.*
- Rent Arrears:
 - *This would be managed inline with the established Council procedures and be subject to further discussions should the situation arise.*

7.3 Currently the risk identified in the above *bullet* points in 7.1 is not addressed by any risk register and will be added to the Corporate Risk Register in due course.

8. CUSTOMER IMPLICATIONS

8.1 There are no customer implications contained with in this report.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 There are no Equality and Diversity implications contained with in this report. However these implications will be considered where reviewing the expression of interest and report to members in future reports.

10. VALUE FOR MONEY IMPLICATIONS

10.1 There are no specific VFM implications contained with in this report, such implications will be contained with in a future report to feedback on the receipt of expressions of interest.

11. CLIMATE CHANGE AND CARBON IMPLICATIONS

11.1 There are no Climate Change implications contained with in this report.

12. OTHER IMPLICATIONS

Procurement Issues - None
Personnel - None
Governance/Performance Management – None
Community Safety including Section 17 of Crime and Disorder Act 1998 - None
Policy - None
Biodiversity - None

13. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Joint Chief Executive	Yes
Executive Director	No
Executive Director	No
Assistant Chief Executive	No
Head of Service	Yes
Head of Financial Services	Yes
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	No
Corporate Procurement Team	No

14. WARDS AFFECTED

All Wards

15. APPENDICES

None

16. BACKGROUND PAPERS

None

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