

20 March 2013**Agenda Item: 7e****REPORT OF SERVICE DIRECTOR - TRANSPORT, PROPERTY &
ENVIRONMENT****THE FORMER NSK SPORTS GROUND, ELM AVENUE, NEWARK****Purpose of the Report**

1. The purpose of this report is to seek approval to a 50 year lease to Newark and Sherwood District Council of the former NSK Sports Ground at Elm Avenue, Newark on terms as set out in this report.

Information and Advice**2. Nottinghamshire County Council purchase in 2004**

The former NSK site 6.19 ha (15.29 acres) was acquired by the County Council in January 2004 for £375,000 and was subject to various covenants and restrictions, namely,

- a right of way for pedestrian access only
- the use is for playing fields only
- any sale within a 21 year period from acquisition will be subject to an overage of 75 per cent of the difference between the original purchase price and the enhanced value

3. Following purchase of the site the County Council entered into a Maintenance Agreement with NSK (Sports and Social Club) whereby they continued to maintain the land for an annual payment of £5,000 which can be terminated by 6 months written notice at any time.

NOTTINGHAMSHIRE OLYMPIC SPORTING LEGACY

4. In addition to the County Council's land as described above and the District Council own the Cycle Track 1.92 ha (2.52 acres) and the Town Council owns 3.73 ha (9.21 acres) of disused allotments and 1.79 ha (4.42 acres) active allotments.
5. The District Council in collaboration and partnership with the County Council and Newark Town Council plans to develop a major new £5m sporting hub. The precise range of facilities to be provided will be determined in full consultation with existing users of the site, local sporting associations and

groups and the wider community.

6. The sporting hub will adjoin a proposed new £12m leisure centre which is planned to replace the facilities at the Grove Leisure Centre, Balderton.
7. The aspiration is that the hub will help local clubs and the community to capitalise on the enthusiasm and legacy of the London 2012 Olympics by increasing participation across a range of sporting activities. The sporting hub will create sporting facilities that the people of Newark can be proud of.
8. The Committee is no doubt aware that the County Council has created £1.7m fund for the Olympic Legacy; which is one of the biggest of this type in the Country. This will help to develop stars for future Olympics.
9. The site comprising the land owned by the three Councils is shown on the **attached** plan.
10. The legacy funding was backed by Lord Sebastian Coe, Chair of the London Organising committee of the Olympic and Paralympic Games, who described the initiative as, a fantastic example of how a legacy for London 2012 can be created at a local level.

GRANT OF 50 YEAR LEASE

11. In order to enable this development of the sporting hub as outlined above it is recommended that a 50 year lease on the following terms be approved by the Committee.

1. **Parties**

The parties to this agreement are Nottinghamshire County Council and Newark & Sherwood District Council.

2. **Property**

Nottinghamshire County Council is the freehold owner of approximately 15.29 acres of land known as the former NSK Sports Site, Elm Avenue, Newark as outlined in red on the attached plan.

3. **Term**

The County Council will grant a lease of the land to the District Council for a term of 50 years with the option after the lease expiry to renew for a further 50 year term.

4. **Rent**

The rent payable will be £1,200 per annum payable quarterly in advance exclusive of rates and all other outgoings with no provision for rent review throughout the term.

5. **Tenure**

The lease will not be contracted out of the 1954 Landlord and Tenant Act.

6. **Use**

The site is to be used for the purposes of a sports field provided that if NSK Bearings Europe Limited enter to an appropriate variation of the covenant restricting the use of the site then the site may be used for the purposes of development of a sports hub and associated ancillary and incidental facilities to include without limitation the erection of a club house or club houses, stadium or stadiums, changing rooms, washing facilities, and the erection of any other building or buildings associated with the use of the sports hub and the provision of sporting facilities; the creation of pitches, synthetic tracks and similar facilities and the construction of a car park or car parks to serve the sports hub and adjoining leisure centre and doctors surgery, together with ancillary lighting and flood lighting and the use of all such facilities for sports and recreation and all ancillary social and fundraising activities, subject to the tenant being responsible for any additional consideration payable as a result of the development under the terms of the transfer dated 30th January 2004, made between NSK Bearings Europe Limited and the Nottinghamshire County Council. In the event that the District Council obtain the said consent from NSK as detailed above the District Council shall notify the County Council in writing

The use of the site for any other purpose will require the consent of the Landlord.

7. **Alienation**

The County Council will permit the District Council to sublet in whole or in part subject to prior written consent (such consent not to be unreasonably withheld) and also subject to any sub-tenants entering into a deed of covenant in accordance with the provisions of the Deed of Covenant to be entered into by the Tenant. The District Council will have the right to licence use of sports pitches on a play and pay basis, provided that no relationship of Landlord and Tenant is created.

8. **Maintenance**

The District Council shall be responsible for repairing and maintaining the site in full including all boundary hedges. In the event of Nottinghamshire County Council being required by NSK Bearings Europe Limited to erect a boundary fence along the boundary with the NSK (Nottinghamshire) Sports and Social Club, the District Council undertakes to erect such boundary fence on the County Council's behalf and at the District Council's cost. The District Council to be responsible for the cost and maintenance thereafter.

9. **Deed of Covenant**

The District Council will enter into a Deed of Covenant as prescribed in the TP1 dated 30 January 2004 between NSK Bearings Europe Limited and Nottinghamshire County Council.

10. **Costs**

Each party will bear their own legal costs for the preparation of the lease.

11. Insurance

The District Council will insure the premises for re-instatement purposes and will carry public and employers liability insurance up to a maximum cover of £5 million. The District Council will indemnify the County Council in respect of any claims arising from its use of the premises including contents insurance if appropriate.

12. Nuisance

The District Council shall not cause any nuisance, inconvenience, interference or disturbance to any neighbouring or adjoining property.

13. Management Agreement

On completion of the Lease the County Council will novate the Management Agreement with NSK (Nottinghamshire) Sports and Social Club to the District Council.

14. Indemnity

The District Council to indemnify and save harmless the County Council from and against all actions, claims and demands either at common law or otherwise howsoever caused, arising out of the use of the Demised Premises and from and against all costs and expenses occasioned by the County Council thereafter.

15. Reinstatement

The District Council will yield up the Demised Premises to the County Council's satisfaction at the end of the lease.

16. Right of Way

County Council to pass the benefit of the pedestrian right of way to Elm Avenue contained in the Transfer dated 30th January 2004 (clause 13.3) to the District Council.

Other Options Considered

12. A sale of the land was considered however disposal by way of a long leasehold was felt to be preferential in that it will enable the funds that would have been used to purchase the site to be invested into the new facilities whilst also enabling the County Council to retain an interest in the site.

Reason/s for Recommendation/s

13. The Lease enables the County Council to support the Nottinghamshire Olympic Sporting Legacy and to retain an interest in the site.

Statutory and Policy Implications

14. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder,

human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

RECOMMENDATION/S

1. That approval is given to the granting of a 50 year lease to Newark and Sherwood District Council of the former NSK Sports Ground at Elm Avenue, Newark on terms as set out in this report.

Jas Hundal

Service Director - Transport, Property & Environment

For any enquiries about this report please contact: Luke Smith 0115 977 2082

Constitutional Comments (EP 11-March-2013)

15. The recommendations in the report fall within the remit of the Finance and Property Committee.

Financial Comments (PS 11-March 2013)

16. The proposed lease is at less than commercial value in order to support social wellbeing by the establishment of a new leisure facility.

Background Papers and Published Documents

17. None.

Electoral Division(s) and Member(s) Affected

18. Ward(s): Newark East
Member(s): Councillor Stuart Wallace

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SP: 2412

Properties affected: 00725 - NSK Sports Ground