
ASSET TRANSFER – ST JOHN FISHER OPEN SPACE

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek approval of the transfer of land at St John Fisher Open Space, Rayleigh as requested by Rayleigh Town Council.

2 INTRODUCTION

- 2.1 Rayleigh Town Council has expressed an interest in leasing the Community Asset, St John Fisher Open Space, as outlined in the appended map (Appendix 1).
- 2.2 The land at St John Fisher Open Space is used for informal and formal recreational activities and also contains a small play area and sports pavilion within its boundary. The sports pavilion is currently closed for public use and requires investment to bring back to an acceptable standard.
- 2.3 The Council's Asset Disposal Framework 2018 states that the Council has the power to dispose of land providing that land is not disposed of including in leases granted in excess of 7 years, at an undervalue.
- 2.4 Where an asset is to be disposed of at an undervalue the Council must be able to justify and evidence that the sale for a value less than best consideration is for reasons of social, economic or environmental benefit.
- 2.5 Community Asset transfers are disposals of Council owned land or buildings, either by transfer or ownership or the granting of a relevant lease (over 7 years) that provide proper purpose and best value, and that secure the promotion of the economic, social or environmental well-being of the local authority's area.
- 2.6 Giving greater control of this asset to the Town Council will allow these areas of open space to be developed to provide opportunities for informal recreation which will enhance the health and well-being of the local community. The provision of open space also contributes to providing a special place to live for local residents.
- 2.7 Initial negotiations outlined draft Heads of Terms that are acceptable to both parties and are appended (Appendix 2). The terms of the Lease to the Town Council are for 125 years at a peppercorn rent with the community open space to be used by the local residents and subject to a restrictive covenant not to use the land other than as a community open space and not to construct any structure on the land other than playground and sports equipment without the consent of the Council.
- 2.8 The Heads of Terms further set out a requirement for a full-repair and insurance lease on the sports pavilion. Rayleigh Town Council has indicated

that it is willing to take on the pavilion in its current condition and provide the necessary investment to bring up to an acceptable standard.

- 2.9 It is proposed that the Council agrees to the land transfer as requested on the following basis:
- The Localism Act 2011 is the Government's aspiration to make it easier for communities and individuals to get things done and achieve their ambitions for the place where they live. Approving the asset transfer gives greater control and responsibility to the local community.
 - The transfer of these assets will give Rayleigh Town Council the responsibility for the day-to-day management of the assets alleviating any requirement for Council intervention.
- 2.10 Approvals are required from the Council to progress an asset transfer, which is then advertised in the local press to inform the general public of the disposal. This is followed by the legal processes required to complete the transfer. The cost of the advertising would be approximately £750.

3 RISK IMPLICATIONS

- 3.1 All leases carry a risk of tenant forfeiture and/or potential damage to the fabric of the asset. This will be mitigated by site inspections to ensure the tenant meets their requirements under the terms of the lease.
- 3.2 The Council will ensure that any liabilities it retains under the lease are properly managed through periodic inspection of the leased asset.

4 RESOURCE IMPLICATIONS

- 4.1 The draft Head of Terms (Appendix 2) are for a 125-year full-repair and insurance lease at a peppercorn rent; this will result in the Council avoiding future cost liabilities associated with repairs and maintenance of the pavilion, as well as transferring operating costs such as utilities, insurance and business rates to Rayleigh Town Council, once the lease is agreed.
- 4.2 Pitch hire for the site currently generates a gross income for the Council of up to £5k per annum, which would not be received once the lease is finalised. However, the Council would also avoid some administration costs associated with this, for example officer time in taking bookings and invoicing.
- 4.3 Overall, it is anticipated that by agreeing the lease there will not be a material impact on the Council's revenue budget, but there will be a reduction in future capital cost liabilities falling on the Council.

5 LEGAL IMPLICATIONS

- 5.1 In accordance with Section 2 of the Local Government Act 2000 the Council has the power (subject to certain exceptions) to do anything which it considers

is likely to achieve the promotion or improvement of the economic, social or environmental well-being of its area. Local authorities are required to obtain best consideration; (section 123 of the Local Government Act 1972) in such situations. However, it is recognised that there may be situations where a local authority considers it desirable to dispose of land for less than best consideration, for example, to secure the promotion or improvement of the economic, social or environmental well-being of the local authority's area. Circular 06/03 of the Local Government Act 1972 – General Disposal Consent (England) 2003 permits disposals in such circumstances, provided the value of the disposal is less than £2 million and other considerations are taken into account; for example, there is a proper purpose and robust and consistent decision-making processes.

- 5.2 Any proposal to dispose of land consisting of or forming part of an open space must be advertised in accordance with the Local Government Act 1972, section 123(2A), which states: "A principal council may not dispose under subsection (1) above of any land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area in which the land is situated, and consider any objections to the proposed disposal which may be made to them".
- 5.3 If the Council approves such asset transfers, the land should be transferred with appropriate restrictions on future use and be subject to the appropriate approvals/consents, including any restrictions imposed by the Council's predecessors regarding its use, being obtained.

6 EQUALITY AND DIVERSITY IMPLICATIONS

- 6.1 An Equality Impact Assessment has been completed and found there to be no impacts (either positive or negative) on protected groups as defined under the Equality Act 2010.

7 RECOMMENDATION

- 7.1 It is proposed that Council **RESOLVES**
- (1) To grant a long lease of amenity land at St John Fisher Open Space to Rayleigh Town Council for a term of 125 years at a peppercorn rent.
 - (2) To Agree the Heads of Terms as set out in Appendix 2; that authority be delegated to the Assistant Director, Place & Environment, and the Assistant Director, Assets and Commercial in consultation with the Portfolio Holder for Environment & Place to finalise the lease agreement.



Marcus Hotten

Assistant Director Place & Environment

Background Papers:-

None.

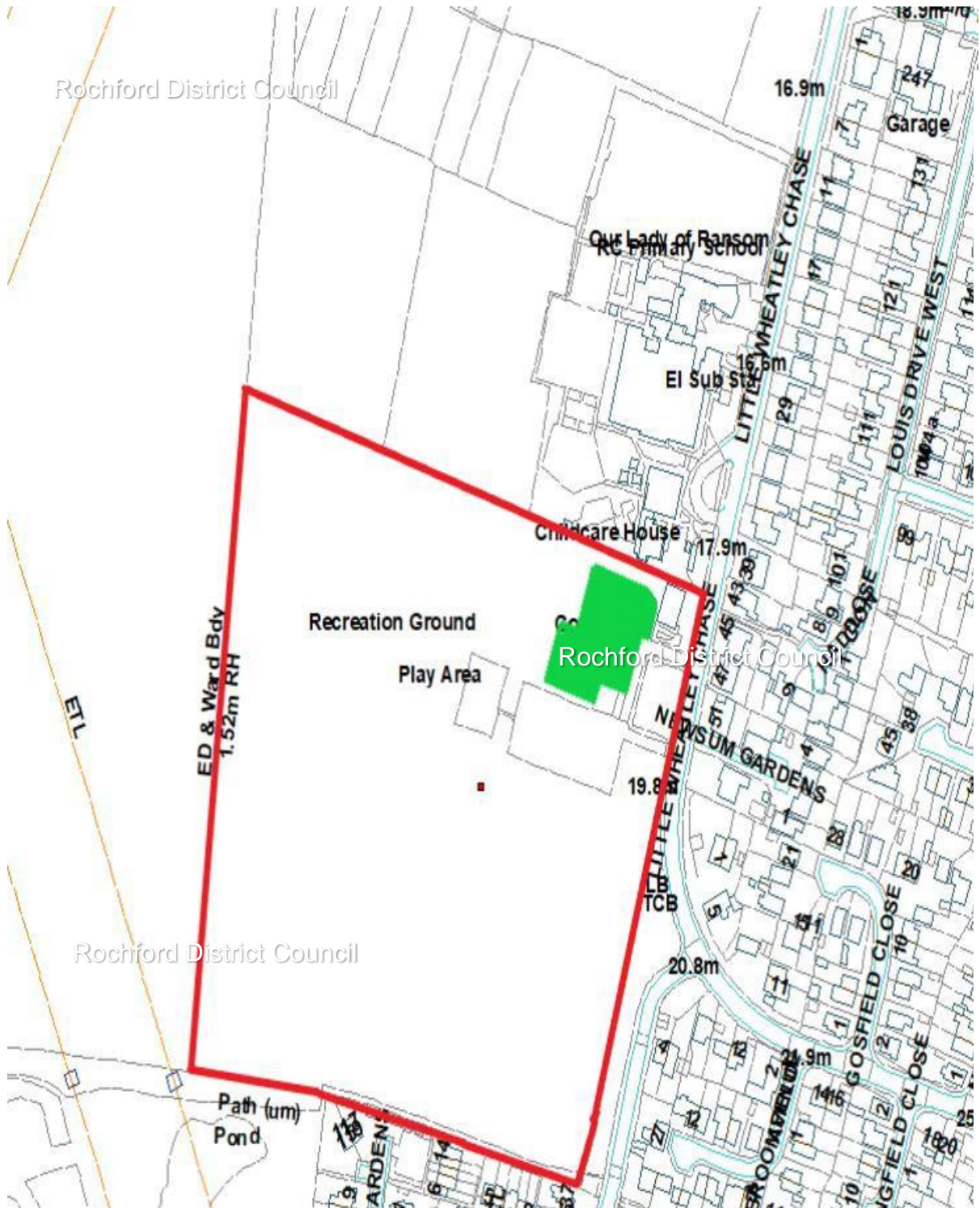
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If you would like this report in large print, Braille or another language please contact 01702 318111.

John Fisher Open Space



NTS

DRAFT HEADS OF TERMS

ST JOHN FISHER, LITTLE WHEATLEY CHASE

SUBJECT TO PORTFOLIO HOLDER DECISION

ADDRESS	St John Fisher Playing Field & Pavilion, Little Wheatley Chase, Rayleigh, SS6 9EH.
DEMISE	To be defined on relevant plan, edged red. Excluding the area marked out in Green.
LANDLORD	Rochford District Council, Council Offices, South Street, Rochford, SS4 1BW
TENANT	Rayleigh Town Council, The Pavilion, King George V Playing Field, Bull Lane, Rayleigh, Essex, SS6 8JD.
TERM	125 years
RENT	Peppercorn
ADDITIONAL RENT/RENT FREE PERIOD	N/A
RENT REVIEW	N/A
OUTGOINGS	N/A
MAINTENANCE AND REPAIRS	<p>Tenant to keep the demised property in good condition and repair.</p> <p>Tenant to keep the demised premises clean and tidy and free from litter.</p> <p>Sports Pavilion to be subject to a full repair and insurance lease.</p>
USE	Public Open Space & Sports provision only.
RIGHT OF WAY	N/A
OTHER RIGHTS	The tenant is responsible for registering the completed lease with the Land Registry.

Appendix 2

ALIENATION	The Tenant shall not be permitted to sub-let or assign the demise without the written consent of the landlord.
INSURANCE	Tenant to insure the land, to include the pavilion, play spaces, furniture, and fencing.
ADVERTISING	Not to exhibit advertisements on signposts, on the demised premises without the Landlord's written approval.
ALTERATIONS	Not to apply for planning permission or make any additions or alterations without the Landlord's consent.
IMMORAL USE/GAMBLING	The Tenant must not use the demises premises for any immoral purposes or gambling. If unsure, should request permission from the Landlord in advance of any event.
NUISANCE	<p>The Tenant shall not do, or permit to be done upon the premises anything which in the opinion of the Landlord may be a nuisance or an annoyance to the Landlord or occupiers of the building or adjoining premises.</p> <p>Being served a statutory notice in relation noise nuisance will constitute a breach of covenant and be a ground for termination of the lease.</p>
PERMITTED HOURS	The Tenant shall comply with all permitted hours specified in any licence granted in relation to licensable activities carried out on the demised premises.
EXCLUSION FROM 24-28 1954 ACT	Security of Tenure will be excluded from this Lease.
BREAK CLAUSE	Either party may terminate at any time after the first anniversary of the lease, subject to giving the other party 6 months' prior written notice.

Appendix 2

OTHER MATTERS	The Tenant shall hold at all times a valid licence for any licensable activities carried out on the demised premises and shall at all times comply with the terms of said licence.
COSTS	N/A

Signed by

For and on behalf of ROCHFORD DISTRICT COUNCIL

Signed by

For and on behalf RAYLEIGH TOWN COUNCIL