



Havering

LONDON BOROUGH

This report is part exempt under the Access to Information Procedure Rules set out in the Constitution pursuant to Schedule 12A Local Government Act 1972, as amended. The exemption sought is by virtue of:

Paragraph 3 - Information relating to the financial or business affairs of any particular person including the authority holding that information; and

Paragraph 5 - Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings; and

It is in the public interest to withhold the information as the public interest in maintaining the exemption outweighs the public interest in disclosing the information as disclosing the information could prejudice the Council's position and this is not in the public interest.

CABINET	11 December 2024
Subject Heading:	Future Management of Brittons 3G Pitch
Cabinet Member:	Councillor Gillian Ford
ELT Lead:	Patrick Odling-Smee
Report Author and contact details:	Guy Selfe, guy.selfe@havering.gov.uk , 01708 433866
Policy context:	People – things that matter for residents
Financial summary:	The financial implications for an operator to manage a football hub that includes two new 3G pitches, contained in this report are detailed within an exempt appendix to this report.
Is this a Key Decision?	(a) Expenditure or saving (including anticipated income) of £500,000 or more

When should this matter be reviewed? December 2025

Reviewing OSC: Overview and Scrutiny Board

The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well **X**

Place - A great place to live, work and enjoy **X**

Resources - Enabling a resident-focused and resilient Council

SUMMARY

The Brittons Playing Field 3G pitch is currently managed on a day-to-day basis by Brittons Academy. The proposed future management of the 3G pitch contained within this report is in order to maximise usage and the potential health and wellbeing benefits of a football hub with an additional two 3G pitches and ancillary facilities. The recommendation to develop a football hub, with an additional two 3G pitches subject to funding, would require the Brittons Playing Field site to be leased to a special purpose vehicle, the National Football Trust (NFT) who would then appoint their subsidiary, Leisure United, to operate the new football hub.

RECOMMENDATIONS

Cabinet is recommended to:

Authorise the Head of Leisure and Culture, in consultation with the Strategic Director of Resources and the Cabinet Member for Adults and Wellbeing to:

- a. Make an application to the Community Infrastructure Fund and to external funders for the funds necessary as partnership funding, progress the feasibility study to substantiate an application to the Football Foundation for further grant funding and to progress the preliminary design work necessary for an application for planning permission.
- b. Subject to (a) above being satisfactorily achieved, to make an application for planning permission to allow for development of the land including and around the existing 3G pitch at Brittons Playing Fields into a “football hub” comprising of two additional 3G pitches and ancillary facilities.
- c. Subject to (b) above being satisfactorily achieved, to submit a funding application to the Football Foundation in conjunction with the National Football Trust.
- d. Subject to (a)-(c) above being satisfactorily completed to negotiate and finalise all required documentation for implementation of this decision (for the avoidance of doubt to include any lease, management agreement and any further documentation / agreements which may be required by the Football Foundation).
- e. Subject to (a)-(d) above being satisfactorily completed (so that the development of the football hub is legally permissible and fully funded) to tender the construction of the football hub facilities and appoint a contractor to build the facilities

- f. If sufficient partnership funding is not secured to apply for Football Foundation funding, report to Cabinet to agree next steps.
- g. Subject to (a)-(f) being satisfactorily completed to: (i) conclude that the Land is no longer required for the purpose for which it is currently held; (ii) appropriate the land for planning purposes pursuant to section 122(1) of the Local Government Act 1972; (iii) deal with all matters related or incidental to the appropriation of the Land.

REPORT DETAIL

Background

1. The existing single 3G artificial turf pitch (the “Pitch”) was partly funded by the Football Foundation (“FF”) through a grant of £407,673 following a joint application by the Council and the Empower Learning Academy Trust. The 3G pitch is currently managed by Brittons Academy (the “Academy”) who are within the Empower Learning Academy Trust.
2. The Pitch sits outside of the school grounds on Brittons Playing Field, with an access gate to the school car park and changing rooms as required when the pitch is let for authorised and paid for bookings.
3. Whilst there is usage of the Pitch, it is not at the level expected and as set out in the application for funding from FF. Nor is the usage sufficient to maximise the health and wellbeing benefits to the Borough. The Academy has attempted to increase the number of bookings and hirers of the Pitch but there have been resource issues with personnel taking the administration and management on in addition to their regular work for the Academy.
4. As a result, in order to maximise usage of the Pitch, increase the health and wellbeing benefits and the sporting participation benefits to residents it is considered that the best option is to seek alternative management of the Pitch with a dedicated resource.
5. The FF are also supportive of introducing alternative management arrangements of the Pitch to maximise the benefits of their funding for the Pitch. FF and the Essex Football Association have approached the Council with a proposal that the Pitch becomes part of a ‘football hub’ with an additional two 3G pitches, pavilion and car parking being built. FF has a delivery model for football hub sites such as this, of which there are

currently 17 in the country, with further detail provided in the body of this report. This includes the future management of a 'football hub' if this were progressed.

Current Situation

6. Our vision is clear: to ensure there is a facility that serves as a hub for community engagement, athletic excellence, and leisure activities. The management of the Pitch is not just about maintaining a playing field; it is about fostering a space where leisure and culture thrive, where our community's health and well-being are prioritised, and where the spirit of sportsmanship is alive and well.
7. The future management strategy is designed to ensure that the Pitch remains a premier destination for both competitive and recreational activities. With a focus on sustainability, inclusivity, and accessibility, we are committed to providing a top-tier experience for all users. The approach is community-focused, ensuring that the needs and feedback of our stakeholders are at the forefront of every decision we make.
8. Through collaborative efforts and strategic partnerships, we aim to enhance the value the Pitch brings to our community. The enhancements in management practices will improve the quality of the facilities and contribute to the health and wellbeing and social vitality benefits they will bring.
9. Unfortunately, and regrettably the Pitch has been subject to daily unauthorised access and use leading to anti-social behaviour and some damage to goals and minor damage to the pitch surface in a limited area. Excessive amounts of litter are left strewn over the site even though there are bins to place litter in, with the school's site team having to spend all their time allocated to the Pitch picking up litter.
10. Regular authorised hirers and the school site team are facing abuse and threats when they arrive requesting the unauthorised users to leave. The fencing has been breached by these unauthorised users smashing a hole in the fence. When repaired, they do exactly the same again within hours of the repair. The Academy does not have the resources available to address these issues.
11. The FF has indicated that there is a risk that some of the grant funding could be reclaimed as the usage targets for the Pitch are not being met. They support an experienced operator being brought in to operate and manage the Pitch to maximise the benefits of their investment.

12. The FF has stated that, subject to a formal funding application being made to them by the Council, there could be up to 75% funding provided to develop a 'football hub' at Brittons Playing Fields.
13. The FF has a delivery process that involves the NFT, a charity, being a joint applicant with the Council for a funding application to the FF. The Council would have to secure up to 25% match funding.
14. The funding application process requires a feasibility study prior to submitting a planning application, which if successful would allow for the funding application to be submitted. If both the planning permission and the funding application were successful, the Council would tender and oversee the construction of the additional facilities
15. Upon Practical Completion, the Council would lease the site to the NFT via a peppercorn lease (full repairing and insuring) with a term of 25 years. The NFT would engage its subsidiary, Leisure United (who currently operate the existing 17 hub sites), to manage and operate the new hub facility. Leisure United is a company limited by guarantee which is also a registered charity.
16. The NFT would be responsible for all running costs including lifecycle replacement and sinking funds. After site costs are covered, 100% of any surplus would be ring fenced by the NFT for re-investment in the borough for football purposes.

REASONS AND OPTIONS

Reasons for the decision:

The under-usage of the Pitch minimises the health and wellbeing benefits of the Pitch. The proposed link up with the FF would allow for increased usage of the Pitch and will expand and improve the health and wellbeing offer to the Borough. Two additional Pitches would also contribute to addressing a strategic shortfall of seven 3G pitches in the borough as identified in the developing Playing Pitch Strategy. The south of the borough that includes Brittons Playing Fields is identified as having a shortfall of three such pitches.

Further, the FF have written to say that unless new management arrangements are introduced to fulfil the potential of the Pitch they will consider the terms and conditions of the grant not met and clawback some or all of their grant of £407,673.

Other options considered:

1. Do nothing – without introducing alternative management arrangements for the Pitch, the Council's health and wellbeing aspirations for the Borough are hindered. Further, the FF have indicated they will look to clawback all or part of their grant funding. Also, the Pitch will continue to be beset with unauthorised use and damage limiting the benefits to residents that could be delivered. The Academy have made it clear they do not have the resource to manage the facility in light of their experience of managing the facility for just over two years.
2. Return the Football Foundation grant of £407,673 or the pro-rata amount agreed with the Football Foundation. This has been rejected as this would not maintain or increase the health and wellbeing benefits the existing 3G pitch can provide to residents. The management of the existing pitch would still need to be resolved as the school have been clear that they cannot manage it to the level required to maximise the usage.
3. Alternative management of the existing 3G pitch has been explored with both SLM, the Council's leisure centre operator, and Leisure United, the subsidiary charity partner of the National Football Trust. Both operators would require an annual management fee, that over ten years is in excess of the amount that would need to be paid back to the Football Foundation were their grant returned. The Council would also be required to establish a sinking fund in addition to build up a fund to replace the existing carpet surface at the end of its life, usually after a ten-year period. This is expected to be in the region of £25k to £32k a year. Leisure United would also require some initial capital expenditure to provide welfare facilities on the site and a cafe area. Details of both SLM and Leisure United's financial proposals for managing the existing single 3G pitch are included within the exempt section of this report. Due to the ongoing financial commitment required for either SLM or Leisure United to manage the existing single 3G pitch and the requirement to contribute to an ongoing sinking fund, this option has been rejected.
4. If a football hub site is developed, seek alternative management options once the site is developed. Whilst this could be considered, the Football Foundation model for a football hub includes the NFT and Leisure United being partners in both delivery and management of a new hub facility.

IMPLICATIONS AND RISKS

Financial implications and risks:

The Football Foundation provided a grant of £407,673 towards the overall cost of converting the existing sand-filled artificial turf pitch to a 3G artificial turf pitch. The Football Foundation have made it clear in letters to the Chief Executive that they believe the only way to maximise the benefits of their investment is to introduce

alternative management of the 3G pitch. This is in light of not meeting the football benefits outlined in the funding application. The school do not have the resource to be able to manage the 3G pitch as was envisaged within the funding application due to issues associated with the pitch.

This presents a high risk, as outlined by the Football Foundation, that they will instruct their Legal team to begin the process of 'clawing back' part or all of the grant funding they awarded. Returning the funds could have a reputational risk and affect future funding bids.

The financial implications for developing a football hub site as outlined in this report are also contained within the exempt part of this report.

If the football hub option is progressed, it is estimated the capital cost would be in the region of £5.5m, this includes all associated costs and an allowance for contingency. An application for CIL funding of £1.2m has been made and if successful would form a large proportion of the match funding required to submit a Football Foundation funding application for up to 75% of the total project costs. It is also proposed that other external funding options are explored to contribute to the match funding required. £1.2m of CIL funding equates to 21.8% of the total estimated costs and therefore an additional 0.176m of externally sourced funding would be required to meet the 25% match funding requested based on the estimated total capital costs.

The total capital costs are an estimated cost and could fluctuate and if costs exceed the estimation, then the match funding may not be sufficient to cover 25% of the costs and alternative external funding would need to be sourced if the project were to go ahead.

The application for the CIL funding has been submitted and it has been through stage 2 of the 3 stages required. If the CIL funding bid is not approved, then the project will not be able to go ahead, and no costs will be incurred unless significant match funding is secured elsewhere.

Once, and if, the CIL funding is approved, a feasibility study will be required prior to a planning application being submitted by LBH and if the planning application is approved, at this point LBH will make a funding request to the football foundation.

The football foundation's capital investment programme states that a grant up to 75% of the costs could be available to fund the project. There is a risk that the funding received may not be the full 75% required to cover the anticipated costs of the project and if this was to happen the specification of the project would need to be reviewed to reduce the costs, or LBH could apply for additional external funding or the project is not continued.

The procurement for the project will be carried out by LBH and will be supported from within existing LBH resources and therefore will not create any additional financial burden.

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There will be preconstruction costs that will be required for this scheme and these will need to be upfront costs and are estimated to be in the region of a maximum of £200k for LBH. Further detail is provided in the Exempt section of this report.

If the project was unable to continue following the preconstruction costs being incurred then the incurred costs would need to be met from LBH and the football foundation on a 40/60 split. No funding has been identified to cover any abortive costs, which would result in an additional pressure for the council if the project was unable to continue.

Upon Practical Completion, the Council would lease the site to the NFT via a peppercorn lease (full repairing and insuring) with a term of 25 years. The football hub option requires no revenue from the Council, with the operator under the proposed model responsible for all costs associated with managing the hub site and meeting Football Foundation terms and conditions for the existing 3G pitch and the additional two pitches plus ancillary facilities. There is also, within the business plan for this option, expected to be an annual revenue surplus from the hub model that would be ring fenced for reinvestment in football in Havering, this would be in consultation with Havering regarding what this investment funds.

Legal implications and risks:

The Council has a power under s.19 Local Government (Miscellaneous Provisions) Act 1976 to provide recreational facilities within its area and a duty under NHS Act 2006 to take such steps as it considers appropriate to improve the health of the people in its area. Section 111 of the Local Government Act 1972 permits the Council to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

The Council has the general power of competence under Section 1 of the Localism Act 2011 to do anything an individual may generally do, subject to limitations. No limitations are engaged by this decision.

The recommendations in this report are in line with the Council's powers and duties.

Football Hub site with all 3 x 3G pitches being managed through the Football Foundation model

Legal Planning Implications

Subject to establishing a viable development proposal the Council may seek to appropriate the land for planning purposes under section 122 of the Local Government Act 1972 and then dispose of a leasehold interest in the land pursuant to section 233 Town and Country Planning Act 1990. A proposed red line plan is attached at Appendix A.

Section 122 of the Local Government Act 1972 (“the Local Government Act”) enables the Council to appropriate land which belongs to the Council for any statutory purpose for which it is authorised to acquire land and which is no longer required for the purpose for which it is held immediately before the appropriation.

The Council must, therefore, consider whether the land is no longer needed for the purpose for which it is so held if it is to be appropriated for planning purposes. In the event that appropriation is progressed need will be considered in a separate delegated report.

The meaning of the words “no longer required for the purpose for which it was held immediately before the appropriation” was considered by the Courts in the context of the predecessor to section 122. In that instance “not required” was held to mean “not needed in the public interest of the locality”.

Appropriation of the land for “planning purposes” (in order to engage the provisions of sections 203 – 205 Housing and Planning Act 2016 (“the 2016 Act”)) requires the Council to consider the following factors whether;

- a. the appropriation will facilitate the carrying out of development, re-development or improvement on or in relation to the land or is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated;
- b. the proposed development, re-development or improvement will contribute to the promotion or improvement of the economic, social and/or environmental well-being of the area;
- c. it is in the public interest that the proposed development should be carried out, having regard to the provisions of the development plan, whether planning permission is in force and any other considerations that would be material to the determination of a planning application for development of the land;
- d. as noted above, the land is no longer required for the original purpose for which it was acquired;
- e. rights capable of being overridden by sections 203 - 205 of the 2016 Act exist and whether interference with such rights is necessary

“Planning purposes” is defined in section 246(1) of the 1990 Act and acquisition for such purposes includes acquisition under section 226 or 227 of the 1990 Act.

Where land is appropriated for planning purposes, it is then held by the Council under the statutory provisions of Part 9 of the 1990 Act. The consequence (by virtue of section 203 - 205 of the 2016 Act) is that the erection, construction or carrying out of any maintenance or any building or work on the land and subsequent use of the land is authorised under those planning powers, if the works are carried out in accordance with planning permission, even if they interfere with third party rights.

Section 241 TCPA 1990 provides that land appropriated by the Council for planning purposes may be used in any manner in accordance with planning permission notwithstanding its status as open space.

It is considered reasonable for the Council to use its powers in this case to appropriate the land within the red line areas as on the Plan attached at Appendix B for planning purposes as the appropriation will facilitate the carrying out of development and improvement to the land and contribute to the promotion of the economic, environmental or social well-being of the Borough.

The Human Rights Act 1998 (“the 1998 Act”) prevents public authorities from acting in a way that is incompatible with rights protected by the 1998 Act. Of particular relevance to the acquisition of interests in land or overriding of interests/rights in land are Article 8 of the European Convention regarding respect for privacy and family life and Article 1 of the First Protocol which concerns the protection of property.

Such rights are qualified rights and may therefore be overridden where it is considered that the interference with these rights are proportionate and that the interference is necessary in the interests of, amongst other things, national economic wellbeing.

It is acknowledged that the appropriation of land for planning purposes may result in interference with property rights. However, compensation will be payable in accordance with statute.

The Council’s power to dispose of the land is held in s233 of the Town and Country Planning Act 1990 (hereafter “T&CPA”), which holds that where any land has been acquired or appropriated by a local authority for planning purposes and is for the time being held by them for the purposes for which it was so acquired or appropriated, the authority may dispose of the land to such person, in such manner and subject to such conditions as appear to them to be expedient in order;

(a) to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on it (whether by themselves or by any other person), or

(b) to secure the erection, construction or carrying out on it of any buildings or works appearing to them to be needed for the proper planning of the area of the authority.

Where such land can be regarded as open space (defined under section 336(1) of the Town and Country Planning Act 1990 as “any land laid out as a public garden or used for the purposes of public recreation...”) the Council must advertise its intention to dispose of the land. Section 233(4) of the T&CPA 1990 requires the Council to advertise its intention to dispose of such land 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.

The disposal of the land will be pursuant to section 233 of the Town and Country Planning Act 1990. The Council has, in addition to advertising the intended appropriation of the land (pursuant to section 122 Local Government Act 1972), to

advertise the intended disposal (on the same basis) in accordance with section 233(4) of the Town and Country Planning Act 1990.

The Council is required to take any representations made into account in reaching the final decision to appropriate and dispose. This involves the exercise of a discretion and the duty to act reasonably in a “Wednesbury” sense.

In practice this will involve balancing the benefits of appropriating and then disposing of the land (and the provision of football hub if that option is chosen or a new operator for the existing single 3G pitch if that option is chosen) as against the loss suffered by any landowners that benefit from rights affecting the land and those members of the public that use and enjoy the land for open space purposes. Adjoining landowners will have their rights overridden (in exchange for compensation) by the appropriation process, for example, this would include landowners that have acquired rights to light or have the benefit of restrictive covenants that affect the land. Members of the public that use the open space for recreational purposes will have their ability to use the open space land for these purposes taken away.

The section 233 TCPA 1990 power of disposal is subject at subsection (3) to the standard requirement to obtain either best consideration or the Secretary of State’s consent, for any leasehold disposal for a term of more than seven years.

Legal Property Implications

The proposed lease of the grant funded redeveloped facilities to the Football Foundation at a peppercorn rent gives rise to considerations of subsidy control. It is considered that the grant, flowing to the lease is likely to be classed as a subsidy but will be consistent with the Subsidy Control Principles and the Council would therefore be able to grant the lease. Further details are attached as exempt appendix C

The land is considered to be an open space. Section 123(2A) of the Local Government Act 1972 (LGA 1972) provides that a council may not dispose of open space land without first advertising notice of their intention to do so for two weeks in a newspaper circulating in the area, and considering any objections to the proposed disposal. Open space is defined in section 336(1) of the Town and Country Planning Act 1990 (TCPA 1990) as any land laid out as a public garden, or used for the purposes of public recreation, or land which is a disused burial ground. This would include open fields and a football pitch used for public recreation.

Human Resources implications and risks:

There are no human resource implications or risks associated with developing a football hub site. As the management of the 3G pitch by Brittons Academy is in addition to normal duties of school colleagues, no TUPE implications apply.

Leisure United would employ and be responsible for any colleagues they employ to carry out the functions associated with managing the Brittons 3G football hub.

Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce. In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socioeconomics and health determinants.

In all situations, urgent or not, the Council will seek to ensure equality, inclusion, and dignity for all.

The Football Foundations investment priorities are to tackle inequalities in four priority groups; women and girls, lower socio-economic groups, disabilities and ethnically diverse communities.

Health and Wellbeing implications and Risks

There are no health and wellbeing implications or risks directly associated with transferring the management of the Brittons 3G pitch following completion of the football hub.

The improvement of utilisation rates of the 3G pitch and additional pitches, anticipated through management transfer, will have positive implications for health and wellbeing, including increased physical activity for facility users and accompanying mental well-being benefits; social connectedness; skills development and employment opportunities. Participation in physical activity, whether as a direct participant, a volunteer or a spectator, can bring mental and physical health and wellbeing benefits.

Enabling equitable access of the facilities to the community and taking active steps to address unauthorised access and associated anti-social behaviour, such as littering and damage, will be crucial in welcoming potential users from Havering and beyond and maximising health and well-being benefits.

ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

There are no implications or risks associated with transferring the management of the Brittons football hub to Leisure United.

There are several considerations regarding the impacts of artificial grass pitches, including being a source of microplastics, at end of life they are not easily recycled, they contribute to urban heat islands and drainage issues. Natural grass acts as a carbon sink and is an important home to microbes, insects and worms, artificial grass does not have these benefits. However, these considerations need to be balanced against the reduced maintenance emission savings and artificial pitches can be used more frequently contributing to public health and well-being. The associated implications with developing additional facilities, including two new 3G pitches, a pavilion and some additional parking will be minimised/mitigated.

BACKGROUND PAPERS

None