

MIDDLESBROUGH COUNCIL

EXECUTIVE SUB-COMMITTEE FOR PROPERTY

LAND ADJACENT TENNIS WORLD, PROPOSED DEVELOPMENT AND FREEHOLD SALE – PART A

**Executive Member for Finance and Governance: Councillor Nicky Walker
Strategic Director for Finance, Governance & Support: James Bromiley**

Date: 25th January 2017

PURPOSE OF THE REPORT

1. The purpose of the report is to consider two proposals: to invest and enhance tennis facilities for the benefit of the area through an investment of £200,000 in Tennis World; and to renegotiate the present lease and dispose of the Council's freehold interest in an area of surplus land adjacent Tennis World.

SUMMARY OF RECOMMENDATIONS

2. To note the details of the investment of £200,000 in tennis facilities at Tennis World based on previous commitments and approved at the council meeting of 30 November and which could be funded from the capital receipt in proposal 2; and
3. To agree the tender proposals forwarded to the Council for consideration in Part B of this Report; to identify a preferred bidder and to agree a sharing of the capital receipt with the leaseholder.

IF THIS IS A KEY DECISION WHICH KEY DECISION TEST APPLIES?

4. It is over the financial threshold (£150,000)
It has a significant impact on 2 or more wards
Non Key

X

DECISION IMPLEMENTATION DEADLINE

5. For the purposes of the scrutiny call in procedure this report is

Non-urgent

X



BACKGROUND

6. The Council's Sports Strategy includes a commitment to enhance sporting facilities throughout the borough by a variety of means.
7. Tennis World currently occupy the exiting site under the terms of a 125 year lease from 2002 at a peppercorn rent with use restricted to that of a tennis facility only. Discussions have been held over a prolonged period with Tennis World to explore possible mechanisms whereby access to facilities and coaching can be offered to a wider cross section of the community. This has resulted in an agreement to invest in tennis facilities at Tennis World through both (1) an initial investment (proposal 1) which has been approved in the Investment Strategy and (2) the potential to sell an underused area of the main site being identified as suitable for disposal and residential development in order to support enhanced tennis provision at the facility (proposal 2).
8. Situated on the junction of Marton Road and Ladgate Lane, the subject parcel of land identified for disposal forms part of the Tennis World complex. The land is located within a mixed leisure, recreation and residential area of the town, with proximity to Middlesbrough's newly opened Sports Village, the more historic Stewart Park and within walking distance of James Cook University Hospital. It is important to note that the land is not currently green space, it is used as clay courts which are no longer required by Tennis World.
9. Shown edged on the attached plan, the subject parcel of land measures 0.91 Hectares [2.27 Acres] located on the western boundary of the Ladgate Park housing development currently being completed by Avant Homes.
10. The site is currently used by the leaseholder (Tennis World) for the provision of outdoor clay tennis courts (to the south of the tennis centre building), unkempt buffer landscaping (to the east of the tennis centre building) and overflow parking (to the north of the tennis centre building).
11. Due to the existing lease terms, any proposed disposal will require the leaseholder to release the surplus land from their existing lease, with that agreement subsequently being amended and renewed accordingly.

Proposal 1 – Investment in tennis facilities at Tennis World

12. With the development of the Middlesbrough Sports Village a commitment was made to enhance and develop the tennis facilities for Middlesbrough and ensure that they were integrated with the overall provision at the site. The proposed investment will upgrade facilities to bring them up to a more modern specification akin to that at the Sports Village.
13. The Council's investment of £200,000 in the facility at Tennis World will be for improvements carried out as Landlord's Works under the terms of the lease; the quality and timing of works therefore being under the Council's control. The lease

will also be subject to a deed of variation, registrable at the Land Registry, the tenant having agreed to reduce the lease term in consideration of this investment from the original 125 year term, to a 25 year term plus an option for a 25 year extension.

14. The budget of £200,000 will contribute to a scheme of work to encompass:
 - i. refurbishment of the internal and external playing surfaces,
 - ii. replacement of existing internal and external lighting with LED lighting - on an invest to save basis,
 - iii. car park works,
 - iv. essential roof works; and
 - v. provision of enhanced access facilities.
15. The full extent of the works set out above will be determined by detailed designs, specifications and costings to be agreed with Tennis World – the budget for this having been approved by Council, as part of the Investment Strategy, on 30th November 2016.
16. In addition to this, the Council's interests will be protected by way of a funding agreement. Under the terms of that agreement, the Council will be able to claw back investment funds in the event that the tenant fails to deliver the Tennis Development Plan that has been agreed – and which requires Tennis World to make their facility far more accessible to the wider general public, as per the rationale below:
 - i. Locally, tennis enjoys participation from primary school children in school years 3 and 4 - however, exposure to primary school children is limited with few and sometimes not very clearly defined pathways available to enable children to sustain their interest, and participation. There are also challenges in engaging adults, with access to facilities, cost and the perception of the level of competency required to play amongst the barriers experienced locally.
 - ii. Key to the delivery of the above is Tennis World's commitment to providing court time and coaching, plus access for Middlesbrough health intervention programmes. The above development plan will be delivered via a steering group comprising of membership from the Lawn Tennis Association, Middlesbrough Council and Tennis World.
 - iii. It is envisaged that this strategically driven partnership between the Lawn Tennis Association, Tennis World and Middlesbrough Council will reduce barriers to participation for all sectors of our community, contribute to raising participation and to reducing health inequalities through participation.

Proposal 2 – Disposal of surplus land and sharing Capital Receipt

17. Separately, the disposal of surplus land on the Tennis World site for housing could further enhance tennis provision and provide an area for housing development in support of the Council's housing strategy. If the proposal is agreed the sale and development of this land will generate a capital receipt for the Council along with an ongoing return to the Council through council tax. In return for release of the surplus land for disposal.

18. As the holder of a long term lease on the site Tennis World would have to agree to the disposal of the land and it is normal commercial practice in such situations for the freehold and leasehold owners to share the proceeds of the disposal of land.
19. Having been deemed by the Council to be surplus to operational requirements, the subject property was marketed in local, regional, national and digital media during the period December 2015 to February 2016.
20. A total of 3 tenders were submitted by 3 different bidders in response to the formal marketing exercise carried out by the Council.

IMPACT ASSESSMENT (IA)

21. A Level 1 (Initial Screening) Impact Assessment (IA) accompanies this report in Appendix 1.
22. The impact assessment identified that the proposal would have a positive impact on the local community as it would make it more likely that the property, which is part vacant and surplus to Council requirements, was brought back into a more beneficial future use.
23. The impact assessment undertaken found that there were no concerns that the proposal could have an adverse impact. In addition, the Council's development control planning process would also serve to ensure that any future use proposed would be appropriate for the local area.

OPTION APPRAISAL/RISK ASSESSMENT (FOR PROPOSAL 2)

24. **Option 1:** To open discussions around reuse of the property for another purpose - no Council operational requirement has been identified. This would require leaseholder engagement and consent.
25. **Option 2:** With the leaseholder's consent, to proceed with the sale of the property in – in order to meet the Council's requirement to generate capital receipts, and bring the land into a far more beneficial use in the future and proceed with the investment in tennis facilities in accordance with the recommendations set out in this report.
26. **Option 3:** Do nothing – the property would remain in its present state. Whilst it would be retained for potential future Council use, the liability and responsibility for maintaining and holding the property would remain with the leaseholder.

FINANCIAL, LEGAL AND WARD IMPLICATIONS (FOR PROPOSAL 2)

27. **Financial** – The Council would receive a capital receipt plus fees, without the need to incur any further marketing costs. The Council will also be making an investment of £200,000 to enhance the tennis facilities. The Council will receive increased Council Tax and New Homes Bonus receipts from any new housing provided on the site.

28. **Legal** – The surplus land identified for disposal must be released from the existing leasehold agreement held by Tennis World. Upon formal release by the leaseholder, the existing lease will be amended and renewed accordingly.
29. In return for this release, the Council has agreed to make funds available to the leaseholder for re-investment in the Tennis World facility – subject to approval by Tennis World at their forthcoming EGM on 19th February 2017.
30. Any disposal would be appropriately documented, and made in accordance with the Council's statutory powers and duties.
31. **Ward** – The property is situated in Marton East and the respective Ward Members have been consulted on the potential to dispose of the property.
32. Members will also be consulted on any subsequent proposal as part of the normal planning process.

RECOMMENDATIONS

33. To note the detail of the investment in tennis facilities in Middlesbrough through improving Tennis World facilities at a budget of £200,000 in return for them renegotiating the lease terms, and
34. To agree the tender proposals forwarded to the Council for consideration in Part B of this Report and identify a preferred bidder; and to approve the sharing of the capital receipt.

REASON

35. This will result in the improvement of tennis facilities in the borough and the disposal of a surplus parcel of land in return for a capital receipt to the Council together with an ongoing benefit to the Council in terms of a council tax receipt and New Homes Bonus.

BACKGROUND PAPERS

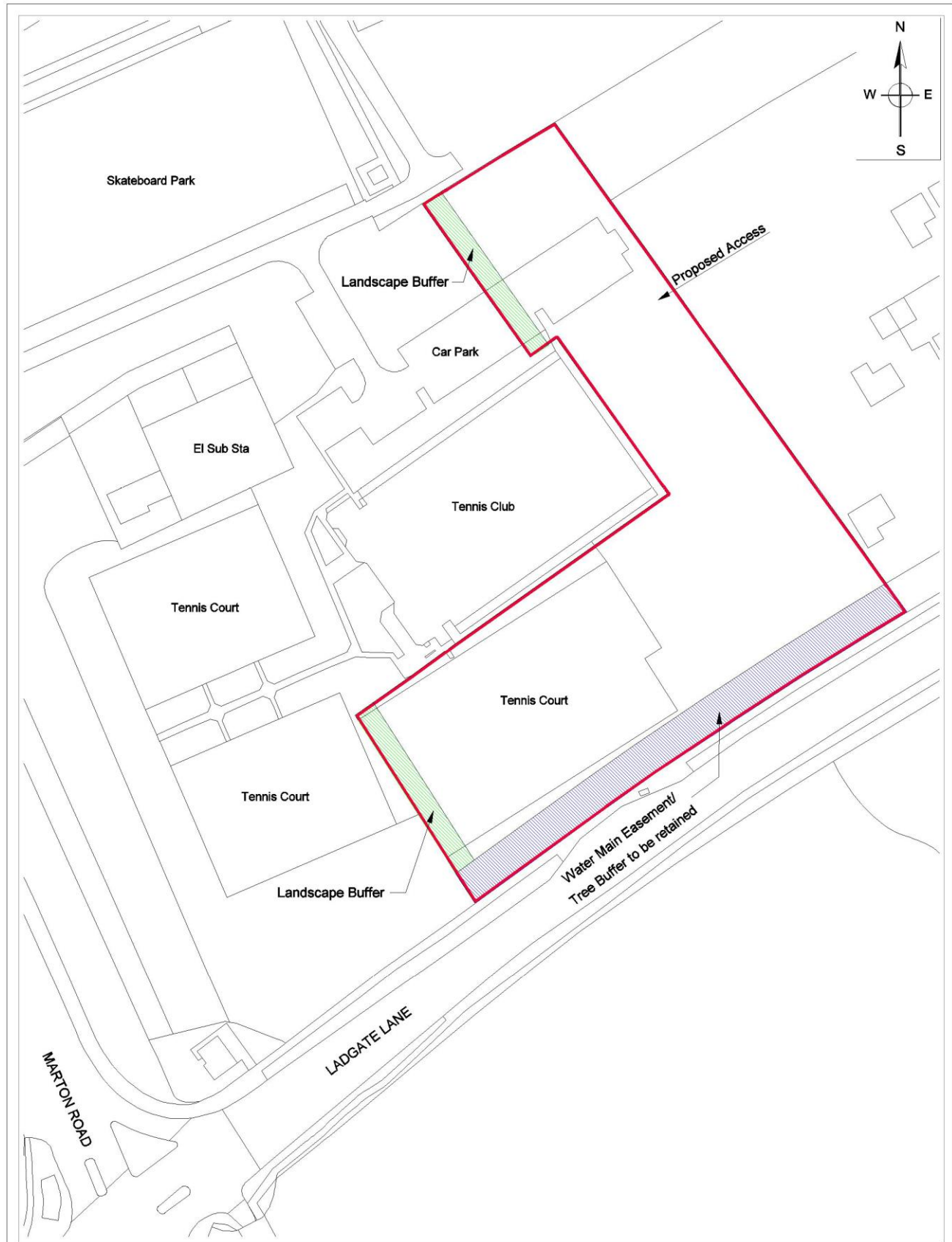
No background papers were used in the preparation of this report

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TIM WAKE VALUATION & ESTATES

LAND AT TENNIS WORLD
 MARTON ROAD/ LADGATE LANE
 MIDDLESBROUGH

Scale:	1:1250
Date:	23rd DECEMBER 15
Drawn:	JMS
Drg No:	VAL 5698 B

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Appendix 1 - Impact Assessment Level 1: Initial screening assessment

Subject of assessment:	The re-structuring of the third party lease held by Tennis World, re-investment in the facility by the Council and disposal of the Council's freehold interest in surplus land adjacent Tennis World.			
Coverage:	Service specific			
This is a decision relating to:	<input type="checkbox"/> Strategy	<input type="checkbox"/> Policy	<input type="checkbox"/> Service	<input type="checkbox"/> Function
	<input type="checkbox"/> Process/procedure	<input type="checkbox"/> Programme	<input type="checkbox"/> Project	<input type="checkbox"/> Review
	<input type="checkbox"/> Organisational change	<input checked="" type="checkbox"/> Other (please state) Asset management		
It is a:	New approach:	<input checked="" type="checkbox"/>	Revision of an existing approach:	<input type="checkbox"/>
It is driven by:	Legislation:	<input type="checkbox"/>	Local or corporate requirements:	<input checked="" type="checkbox"/>
Description:	<p>Key aims, objectives and activities To assess the impact of the proposal to re-structure the lease agreement, re-invest in the facility and dispose of Council property deemed to be surplus to operational requirements.</p> <p>Statutory drivers (set out exact reference) The Local Government Act 1972 Section 123, as amended by the Local Government Planning and Land Act 1980 Section 118 Schedule 23 Part V.</p> <p>Differences from any previous approach Currently part utilised as seasonal outdoor clay tennis courts, the subject property is mainly vacant – comprising an overflow car park and unkempt landscaping. No Council staff occupy the subject parcel of land, and the third party leaseholder (Tennis World) in possession of the land will be provided with funds to re-invest in the parts of the facility planned to remain. Future use of the surplus land will be for residential purposes.</p> <p>Key stakeholders and intended beneficiaries (internal and external as appropriate) The Council, Tennis World, the preferred bidder and the local community.</p> <p>Intended outcomes The proposed disposal of the subject site would:</p> <ul style="list-style-type: none"> • generate a significant capital receipt for the Council and create new jobs within the borough; • remove the Council's liability for future holding costs, responsibility for, and maintenance of the property, and • help stimulate further development in the local area, and bring the subject property back into a more positive future use. • Enhance and widen the opportunities for tennis provision to the residents 			
Live date:	Wednesday 28 th December 2016.			
Lifespan:	Not applicable.			

Date of next review:	Not applicable.
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Screening questions	Response			Evidence
	No	Yes	Uncertain	
<p>Human Rights Could the decision impact negatively on individual Human Rights as enshrined in UK legislation?*</p>	☒	☐	☐	<p>It is considered that the disposal of the subject property will not impact negatively on individual human rights as the proposal represents a significant and positive enhancement for the local and wider area, which outweighs the loss of the parcel of land. This assessment has been made taking into account:</p> <ul style="list-style-type: none"> • the fact that the property is part utilised, and that the occupation of the third party leaseholder (Tennis World) will be protected accordingly; • the derived benefit of access to facilities and coaching being made available to a wider cross section of the community than under previous arrangements; • the new dwelling houses that future re-use of the property will create, and • the potential for this proposal to stimulate further economic development within the borough.

* Consult the Impact Assessment further guidance appendix for details on the issues covered by each of these broad questions prior to completion.

Screening questions	Response			Evidence
<p>Equality</p> <p>Could the decision result in adverse differential impacts on groups or individuals with characteristics protected in UK equality law? Could the decision impact differently on other commonly disadvantaged groups?*</p>	☒	☐	☐	<p>The Council has a duty to consider the impact of the proposed decision on relevant protected characteristics, to ensure it has due regard to the public sector equality duty. Therefore, in the process of taking decisions, the duty requires the Council to have due regard to the need to:</p> <ul style="list-style-type: none"> (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. <p>Consideration of this duty has shaped the proposals.</p> <p>The property is part utilised and fulfils a very limited function, purpose or service. The element that is utilised is an enclosure containing four clay tennis courts, which are used seasonally and are in poor condition. Disposal of this element of the land will allow for reinvestment to be made in the parts of the facility planned to remain. In accordance with this position, access to and delivery of Council services will not be affected by the proposed disposal.</p> <p>Due to the subject property being located within close proximity to the areas of recreational/open space provided by Tennis World, the adjacent Sports Village and Stewart Park, it is considered that the proposal will not have a disproportionate adverse impact on a group, or individuals, because they hold a protected characteristic.</p> <p>Evidence used to inform this assessment includes engagement to date with relevant Council departmental teams, Tennis World and the proposed purchaser, together with analysis of the terms and conditions that will be incorporated within the proposed sale.</p>
<p>Community cohesion</p> <p>Could the decision impact negatively on relationships between different groups, communities of interest or neighbourhoods within the town?*</p>	☒	☐	☐	<p>There are no concerns that the proposal could have an adverse impact on community cohesion.</p> <p>Evidence used to inform this impact assessment includes the potential for bringing this property back into a far more beneficial future use than that being provided under the current ownership and management arrangement; plus the derived benefits that access to facilities and coaching being made available to a wider cross section of the community will bring going forward.</p>

Screening questions	Response			Evidence
Middlesbrough 2020 – Our Vision Could the decision impact negatively on the achievement of the vision for Middlesbrough?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The disposal of the subject land is intended to facilitate regeneration, and as such, it is considered that it will contribute <i>positively</i> towards the Middlesbrough 2025 Vision, specifically in respect of Aim 2 ('a learning town, in which families and communities thrive), where one of the priorities is for more people to be working. This assessment has been made taking into account the new dwelling houses that will be created in the Borough by bringing this property back into a far more beneficial future use.
Organisational management / Change Programme Could the decision impact negatively on organisational management or the transformation of the Council's services as set out in its Change Programme?*	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No tangible relationship between the disposal of the property and the organisational management of the Council, or the transformation of its services (as set out in its Change programme), have been identified.
Next steps: ➡ If the answer to all of the above screening questions is No then the process is completed. ➡ If the answer of any of the questions is Yes or Uncertain, then a Level 2 Full Impact Assessment must be completed.				

Assessment completed by:	David Velemir	Head of Service:	Ian Wright
Date:	28/12/2016	Date:	28/12/2016