



Report of the Cabinet Member for Investment, Regeneration & Tourism

Cabinet – 20 January 2022

Proposed Lease to Part of Coedgwilym Park to Friends of Coedgwilym Park

Purpose:	To seek approval to negotiate and agree Heads of Terms and enter into a lease with Friends of Coedgwilym Park for parts of Coedgwilym Park.
Policy Framework:	Asset Management Plan 2021-25 Community Asset Transfer Policy 2021 Policy Commitment - Creating a Healthier Swansea
Consultation:	Legal, Finance, Property and Access to Services.
Recommendation(s):	It is recommended that Cabinet: 1) Approves the proposed disposal of the land to Friends of Coedgwilym Park at a level of undervalue being acceptable to Cabinet based on advice of the Head of Property Services. 2) Delegates authority to the Head of Property Services to negotiate and settle the terms of the proposed leases (and thereafter any required Deeds of Variation) and authority is delegated to the Chief Legal Officer to finalise the legal documentation.
Report Authors:	Sue Reed / Gemma Bevan
Finance Officer:	Aimee Dyer
Legal Officers:	Debbie Smith / Sally Ann Evans
Access to Services Officer:	Rhian Millar

1.0 Background

It is Friends of Coedgwilym Park's intention to enter into a 125 year lease for part of Coedgwilym Park as the transfer will create a mutual benefit to both the Council and the Community by promoting social, economic or environmental wellbeing and supporting the aims and priorities of the Authority. Under the proposal, the Friends will undertake the management of the bowling green and additional surrounding land (as shown outlined in red on the plan in Appendix A) to enable the construction of an associated club house and community building. The Friends Group is made up of the existing eight formal park organisations being three bowling clubs, three football clubs, the Canal Society and the Heritage Centre. The group is run by volunteers and formally by Trustees with each of the park organisations represented.

- 1.1 Coedgwilym Park is an area of approx. 35,000Sq.m. It currently has two enclosed play areas (one of which is older and more dilapidated than the other), a bowls green, two full size football pitches and accompanying changing rooms, two tennis courts and a multi-use games area.
- 1.2 The Park is owned by Swansea Council and is maintained by Parks Operations from within the Waste Management service.
- 1.3 It is also home to the Swansea Canal Society who hire out kayaks and canoes from the on-site boating house.
- 1.4 Clydach Heritage Centre is also on the park's grounds, and is open mainly on weekends for short periods, showing the history of Clydach from the late 1700's to date.

2.0 Business Case and Proposal

- 2.1 Friends of Coedgwilym Park have submitted a request to take on full repairing, maintaining and service provision of the bowling green, and land alongside bowling green for the construction of a new community building.
- 2.2 The Friends were formed on March 4th 2019 and is a registered charity with the objective of improving the facilities at Coed Gwilym Park for the whole community. To date £184,000 has been raised of the £192,000 required for the project, from grants, donations, local businesses and sponsors. The Friends successfully refurbished the existing clubhouse at a cost of nearly £37,000 completed pre-pandemic.
- 2.3 The successful implementation of this proposal and long-term lease as detailed in the Friends business plan (Appendix B) will provide the following benefits;
 - Community cohesion through the ownership, involvement and interest in local facilities.

- Partnership working with the community in managing and safeguarding valuable community assets.
- Investment in modern, fit for purpose facilities which the Authority is not in a position to provide.
- Increased access to local formal and informal sporting and recreational opportunities.
- Access to funding opportunities not available to the Local Authority.

3.0 Property Implications

- 3.1 To enable the Friends to confidently invest in the facilities without fear of the useful life of those investments being cut short and to give the parties involved the ability to apply for grant funding for the maximum number of grants available a 125 year lease is considered appropriate in this case.
- 3.2 The lease will require Friends Group to be fully responsible for all, utilities, insurance, repair and maintenance of the leased area, The use will be limited to that of a bowls green and community building.
- 3.3 Given the above terms a peppercorn rent for the length of the term is considered appropriate and to be best value given the proposed use. The current use of the land makes any more financially viable use of the land extremely unlikely and, even if it were possible, it would probably be outweighed by the well-being benefits of the current proposal.
- 3.4 The Council is required to dispose of land for the best consideration reasonably obtainable in accordance with Section 123 of the Local Government Act 1972 and the Council's Land Transaction Procedure Rules.
- 3.5 The General Disposal Consent (Wales) Order 2003 allows a range of public bodies to transfer the ownership and management of land and buildings to local communities at 'less than best consideration' where it is the intention to promote social, economic or environmental well-being. The proposed disposal is in accordance with the Councils Community Asset Transfer Policy (CAT Policy) and falls within the scope of the General Disposal Consent (Wales) Order 2003. This disposal also meets the objectives of the Well-Being of Future Generations (Wales) Act 2015 and the Council's policy commitments of creating a Healthier Swansea.
- 3.6 The Head of Property Services is satisfied that the disposal is in accordance with the CAT Policy in that it will create a mutual benefit to both the Council and the community by promoting social, economic or environmental wellbeing and support the aims and priorities of the Council. Community Asset Transfer is an established mechanism used to enable the community ownership and management of public owned land and buildings. The ultimate aim of Community Asset Transfer is community empowerment, that is, to ensure that land and buildings are

retained or transformed for public benefit through community asset ownership or management.

3.7 In order to comply with the Council's Land Transaction Procedure Rules this report needs to include prescribed information, It is confirmed in the paragraphs above that this disposal is in accordance with the CAT Policy and meets the requirements of the General Disposal Consent (Wales) Order. If this disposal is not approved then the benefits as outlined in paragraph 2.3 will not be achieved. There is no commercial advantage acquired by the tenant as a result of this disposal as the proposed tenant is not a commercial enterprise. The proposal is to lease the Land for a term of 125 years on a full repairing and insuring lease at a peppercorn rent.

3.8 The above mentioned terms are non-negotiable so cabinet approval is sought for these terms and to then authorise the Head of Property Services to negotiate and settle the other detailed terms of the proposed lease (and thereafter any required Deeds of Variation) and to instruct the Chief Legal Officer to finalise the legal documentation.

3.9 As the land is deemed to be public open space, a statutory consultation process was previously undertaken in respect of the disposal of the Land and a separate public open space notice was advertised in March 2020 to dispose of the whole Park. No objections were received for either notice.

4. Integrated Impact Assessment

- 4.1 The Council is subject to the Equality Act (Public Sector Equality Duty and the socio-economic duty), the Well-being of Future Generations (Wales) Act 2015 and the Welsh Language (Wales) Measure, and must in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Acts.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
 - Deliver better outcomes for those people who experience socio-economic disadvantage
 - Consider opportunities for people to use the Welsh language
 - Treat the Welsh language no less favourably than English.
 - Ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

- 4.1.1 The Well-being of Future Generations (Wales) Act 2005 mandates that public bodies in Wales must carry out sustainable development. Sustainable development means the process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the 'well-being goals'.
- 4.1.2 Our Integrated Impact Assessment (IIA) process ensures we have paid due regard to the above. It also takes into account other key issues and priorities, such as poverty and social exclusion, community cohesion, carers, the United Nations Convention on the Rights of the Child (UNCRC) and Welsh language.
- 4.2 An IIA Screening Form (Appendix C) has been completed with the agreed outcome that a full IIA report was not required:
- The Friends will improve and enhance the facility provision in Coedgwilym Park to enable them to further develop opportunities for the local community.
 - There will be no change in provision or opportunity than at present as the Park will remain fully open to the public.
 - Consultation has been undertaken by the Friends of Coed Gwilym Park, as part of the funding application process, over 800 people were consulted.
- 4.3 The IIA process also provides evidence that the initiative complies with Welsh Language Standards: specifically, that we have considered how to maximise any benefits and minimise any adverse effects on:
- opportunities for people to use the Welsh language
 - treating the Welsh language no less favourably than English.

5.0 Financial Implications

- 5.1 Agreement of a long term lease to the Friends would preclude the Authority from the possibility of the future sale and capital receipts from this site.
- 5.2 There will be no additional long term revenue or capital financial commitment required by the Authority for any new facilities provided by the Friends, as this will be the responsibility of the Friends from the date of the lease.
- 5.3 The Authority has received an outline business case from Friends of Coedgwilym Park which includes their form of organisation and the proposed community benefits.

- 5.4 Given the above terms a peppercorn rent for the length of the term is considered appropriate and to be best value given the proposed use. The current use of the land makes any more financially viable use of the land extremely unlikely and, even if it were possible, it would probably be outweighed by the well-being benefits of the current proposal.

6.0 Legal Implications

- 6.1 Section 123 of the Local Government Act 1972 and the Council's Land Transaction Procedure Rules set out in the constitution apply to this disposal. Under s123 LGA 1972 a local authority has the power to dispose of land held by it in any manner it wishes provided that the local authority achieves the best consideration that can reasonably be obtained except where the disposal is for a short tenancy (less than 7 years) or the local authority has the consent of the Welsh Ministers. Under the Council's constitution the responsibility of determining in what manner the land will be disposed of in order to obtain best consideration lies with the Head of Property Services.

Under the General Disposal Consent (Wales) Order 2003 the Welsh Ministers have issued a general consent for disposals of land under s123 for less than best consideration. This allows a local authority to dispose of land for less than best consideration if it considers that the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the extent of the undervalue is no more than £2m.

- 6.2 There are specific powers and requirements for the disposal of land held by a local authority for planning purposes, housing, allotments, open space and school playing fields.
- 6.3 Where the land is deemed open space, the Council is required under s123 to advertise the disposal of the land in the local newspaper for two consecutive weeks and to give full and proper consideration to any objections. The key issue for the Council is to balance any adverse consequences of the loss of open space, having regard to the objections received, against the advantages of disposing of the land. The public open space notice published in March 2020 encompassed the whole park, and no objections were received.
- 6.4 In order to dispose of land which is currently playing fields the local authority must comply with The Playing Fields (Community Involvement in Disposal Decisions) (Wales) Regulations 2015. The Council must before making a decision to dispose of a playing field, or any part of a playing field, publish on two consecutive weeks in at least one local newspaper a notice of the disposal and display a copy in at least one place on or near the playing field to which the disposal relates, and, in any event, at each official entrance to the playing field, for not less than 6 weeks. Copies of the notice and details of the disposal also need to be sent to a number of organisations as set out in the regulations.

The requirements contained in the regulations do not apply where:

1. The proposed decision to dispose relates to the grant of an interest in the playing field, or any part of the playing field, that does not have an adverse impact on the use of the playing field as a sports or recreational facility by the public;
 2. The playing field is to be retained as a sports or recreational facility for use by the public and the disposal is to be made to a local authority or a body whose aims or objectives include the promotion of sporting or recreational activities.
- 6.5 The property has not been advertised on the open market. The Council's constitution specifies that if there has been no marketing of the Land or only one person has indicated an interest to purchase there can be no such disposal of land except where it is determined by the Head of Property Services or his nominee is satisfied that the disposal would be in accordance with the applicable statutory requirements. In considering this, the Head of Property Services may have regard to the following matters (among others) (a) the robustness of the valuation evidence (b) the likely market for the Land now and in the future given its relevant physical, legal or other characteristics, (c) the potential for the Land to be transferred to and used by a community council or Third Sector/Community Group in accordance with the CAT Policy, (d) responses (if any) received by the Council following reasonable marketing of the Land and (e) whether the disposal would achieve a corporate objective or contribute to the promotion or improvement of the economic, social or environmental wellbeing of people or communities in its area (taking into account all considerations including subsidy controls).
- 6.6 The Head of Property Services is satisfied that the disposal is in accordance with the CAT Policy and assists the Council in meeting several statutory and policy objections, therefore satisfying the criteria in (c) and (e) above,.
- 6.7 The lease documentation will contain all the relevant provisions to protect the Council's interest.

Background papers: None

Appendices:

Appendix A - Plan

Appendix B - Friends Business Plan

Appendix C - IIA