

Supporting Information and Impact Assessment

Service / Policy:	Corporate Asset Management Plan
Executive Lead:	Mayor (Mayor Gordon Oliver) Executive Lead for Finance and Regeneration
Director / Assistant Director:	Anne-Marie Bond, Assistant Director – Corporate & Business Services

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Section 1: Background Information

1. What is the proposal / issue?

Rent for a new lease to Torre Valley Sports Group CIC (Community Interest Company) had previously been negotiated at £2,000 pa. The discussions were in principle and subject to contract. However, in February 2016 the Council's Corporate Asset Management Plan 2015 ~ 2019 was updated and a new version adopted by the Council. This Plan forms an important part of the Council's Policy Framework. The revision inserted the following statement, "*Due to the financial challenges facing the Authority and the possible future reductions in Revenue Support Grants (RSG), unless there is specific approval at Full Council to the contrary, the Council will always seek to maximise the full market receipt for their assets whether by way of freehold disposal or leasehold interest*".

A subsequent market rental valuation has now been completed for the Torre Valley North playing fields, with the market rent estimated to be in the region of £3,350 ~ £6,000 pa.

The TDA reached this market valuation range by using comparable data from Teignbridge District Council and Plymouth City Council. Evidence was also taken from existing leases such as the Torquay Recreation Ground. Whilst not providing direct comparables the TDA also discussed market rents with surveyors at Exeter City Council and also knowledge was gained from East Devon District Council to obtain the market 'tone', as well as the range of values from those council areas.

In accordance with the Council's Corporate Asset Management Plan, Council approval is needed for any leasehold disposal at less than market rent.

2.

What is the current situation?

As a response to escalating pupil numbers in 2012/13 Cockington School was identified as needing to expand. To facilitate this expansion there was a need to utilise land at Torre Valley North (TVN). During the Spring/Summer 2013, Children's Services and Cockington School took over some of the TVN land to increase the size of the playground in order to increase the size of the school. In doing so it affected the ability of the various sports to be carried on at TVN due to reduced pitch sizes. As a result, Children's Services put forward proposals in which it was agreed that as compensation for the land taken away they would transfer £127,000 to the Council to assist with improvements to the playing fields. The Council's Capital Plan was amended in Q3 2013/14 with the transfer of the £127,000 funds from Cockington Primary School expansion scheme to the Council to compensate for the school's encroachment onto TVN. This money was held by the then Residents and Visitors Services area to carry out the works, subject to receipt of quotes being received.

The £127,000 is capital funding and has to be spent on "eligible" capital expenditure. Once the eligible works were complete then the agreement was that the balance of the money would be available as a grant to Torre Valley Sports Group CIC, the proposed Lessee. This was built into the draft Heads of Terms being negotiated at the time.

Initially the lease negotiations started at a quoting rent of £4,000 pa. In subsequent negotiations that followed it was agreed the proposed rent would be reduced to £2,000 pa in order to assist the tenant in building up revenue and membership. This equated to approximately a 50% reduction in the full market rent for the TVN sports field. However, as is normal practice the discussions were in principle and subject to contract.

A lease was then drafted on this basis and was due to be completed in April 2016. However, amendments to the Council's Corporate Asset Management Plan 2015 ~ 2019, in February 2016, has meant that officers are required to offer Torre Valley Sports Group CIC a leasehold disposal at the full market rent, which will be at the original figure of £4,000 pa.

Given the protracted delays and the revised higher rental figure it is proposed that a 30 month rent free period should be offered so that the average rent over the first five years is equivalent to the originally agreed rent of £2,000 pa, which was an offer made by the Council in good faith.

The tenant will be able to apply for a grant to offset the market rent in the future and the tenant will be able to exercise a break clause if they cannot sustain their commitments. Furthermore, the grant period can be aligned with the time of the rent review and/or break option.

Also, it is now appropriate to grant a lease to the Torre Valley Sports Group CIC that is in accordance with the 'overarching sports lease strategy' identified in the revised Corporate Asset Management Plan. The aim of the generic approach to sports leases is to provide a speedier, more consistent and transparent approach, for all concerned, which will hopefully help to reduce further delays and manage the expectations of the clubs.

Furthermore, the Council will not normally offer grant support to tenant organisations that are not affiliated to or are a member of a recognised national body/voluntary organisation. This requirement is included to ensure that a tenant organisation has appropriate rules & regulations; and is required to follow best practice in such matters as safeguarding, protecting young children, financial probity and equality. It is expected that the organisation will have the relevant policies for such matters and can therefore demonstrate a corporate social responsibility.

In 2014/15 the revenue budget for sports leases was reduced by £25,000 in lieu of the anticipated savings being released from clubs taking out 40 year leases. The anticipated savings have not been made and therefore this remains a budget pressure.

The Council's ability to provide support for sports clubs in the Bay has clearly worsened since the expansion of Cockington School and when negotiations commenced with the Torre Valley Sports Group CIC. In the draft Heads of Terms being negotiated at the time it was suggested that once the "eligible" capital works were complete then the agreement was that the balance of the money would be available as a grant to Torre Valley Sports Group CIC, the proposed Lessee. It is the view of officers that this is no longer appropriate and would not be an equitable use of the funding. It is the Council which has suffered the detriment of the land being taken by the School rather than the clubs. It is now proposed that, the remaining balance of the £127,000 capital sum allocated as compensation for land taken to expand facilities at Cockington Primary School, be used initially to undertake modifications to the playing fields at Torre Valley North such that they are reinstated to the same standard that existed prior to the extension of the school.

The Torre Valley Sports Group CIC would be able to make an early application for the use of any remaining funds so that they can further improve the facilities at Torre Valley North. Torbay Sports Council will be able to advise the Council on how best to use any funding that remains.

<p>3.</p>	<p>What options have been considered?</p> <p>The following options have been considered:</p> <p>Offer the lease at below the market rent During early stage discussions the rent for the lease was reduced from a quoted £4,000 pa down to £2,000 pa. This 50% reduction was to ensure that the tenant, Torre Valley Sports Group CIC was viable and sustainable and given time to build up revenue in order to pay the rent. It should also be noted that the Lease allows the rent to be reviewed to the appropriate market rent every 5 years. Therefore, the Council would at regular intervals have further opportunity to obtain a market rent from this property at each rent review during the lease term.</p> <p>If the CIC are granted a lease at below market rent then this will set a precedent for other sports clubs in Torbay.</p> <p>Seek the full market rent from the commencement of the lease Having looked at market comparable evidence for similar playing field sites throughout Devon, the market rent has been assessed for this property at between £3,350 and £6,000 per annum. Therefore, the proposed rental terms of the lease with the Tenant would fall within this range.</p> <p>Seek the full market rent from commencement of the lease but offer a rent free period This would allow the tenant to make an application for a grant to offset the market rent in the future. A rent free period of 30 months (2½ years) would equate to an average rent of £2,000 pa for the first five years. This is the option recommended.</p> <p>Offer a lease with a peppercorn rent This is outside of Council policy and there is no business case to justify this option.</p>
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>This decision to grant a lease at Torre Valley North is not a corporate priority. However, it does support the Corporate Plan ambitions of being a Healthy Torbay in promoting a healthy lifestyle and ensuring Torbay remains an attractive and safe place to live.</p>

<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The outcome regarding the rent could affect the Tenant and any of the clubs that hire the ground from them, as well as the Council as Landlord. The tenant has already stated that if the rent were to increase they would look at increasing the hiring charges to the clubs that use the ground. The lease is currently drafted whereby the hire charges to the clubs that use TVN is capped at not more than 15% more or less than the Council would reasonably charge for using similar facilities elsewhere in the Bay.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>Discussions have been ongoing and the lease has already been agreed but 'subject to contract', therefore, any further consultation following the Council's decision would be with the tenant, Torre Valley Sports Group. Draft reports and appendices were considered by the Overview & Scrutiny Board and sent to the Torbay Sports Council for suggestions and comment. Representatives from Torbay Sports Council and the Torre Valley Sports Group CIC were asked to speak at the Overview & Scrutiny Board on 6th July 2016.</p>

Section 2: Implications and Impact Assessment

<p>7.</p>	<p>What are the financial and legal implications?</p> <p>Financial Implications of Decision</p> <p>There is an assumption that the Council would save the maintenance costs for this site. However, these are part of a wider package of maintenance costs arranged within the TOR2 contract. It is anticipated that the earliest any cashable saving could be realised from the change in maintenance liability will be 2019, at the end of the current contract period with TOR2.</p> <p>The rent receipt is expected to be £4,000 pa less any rent free period.</p> <p>There will also be a financial precedent set if the full £127,000 is allocated to the new CIC in compensation for the loss of sports facilities. Currently, Torre Valley North Playing Fields is a Council asset, with sports clubs hiring the facility as and when required. Therefore, it is the Council which has suffered the detriment of the land being taken by the School rather than the clubs. When this was discussed in 2012/13 the Council's financial position was different.</p>
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<p>8.</p>	<p>What are the risks?</p> <p>Risks to Council</p> <p>If the rent is agreed at full market rent then there is no risk to the Council as it is within the Council's Asset Management Plan.</p> <p>If the rent is agreed at a level below market rent then this would be contrary to the Council's Asset Management Plan.</p> <p>If the Council determines a rent higher than they have been negotiating with the CIC, due to the recent change in Asset Management Plan then there is a small risk of reputational damage for the Council with the CIC and other sports users. The Torre Valley Sports Group CIC could make a formal complaint against the Council.</p> <p>Any remaining balance from the £127,000 could be utilised to support a wide range of other sports facilities across the Bay and need not be linked directly to Torre Valley North.</p> <p>Risk to the CIC</p> <p>If the rent was increased to the full market rent then there is a risk that the Tenant would find it difficult to meet the rental commitments through the term of the lease and would have to increase the rental charges to the community using the facilities, which may deter participation. However, a rent free period would help to mitigate this risk and the tenant could apply for a grant to offset the market rent. Also, as an ultimate option the tenant would have a right to break the lease.</p>
<p>9.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable as procurement of services or the provision of services together with the purchase or hire of goods or the carrying out of works not required as part of this decision</p>
<p>10.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Comparable evidence from sport leases from Plymouth City Council, Teignbridge District Council and Exeter City Council has been obtained as well as reviewing data from completed leases within Torbay Council. This data has helped inform the calculation of the market rent.</p>

<p>11.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>Torbay Sports Council were consulted on these proposals and they provided feedback to the Overview and Scrutiny Board. The views of the Torbay Sports Council can be summarised as follows :-</p> <p><i>“Torbay Sports Council do not agree with the Council to charging Market Rent on Sporting Facilities. Torbay Sports Council proposes that all Sports Leases not for profit organisations have a peppercorn rent up to a maximum of £500 a year and this is put before full Council. This includes old, current and future leases.”</i></p> <p>The Sports Council also stated that :-</p> <p><i>“If the lease is agreed, Torbay Council will save £630,000 over 30 years. Also, if market rent is charged at this facility then sports charges will increase between 150% and 200% for Rugby, Cricket and Athletics; which will not be affordable for the sports clubs.”</i></p> <p>On the matter of the £127,000 capital sum the Sports Council confirmed their view that <i>“any balance that was left after improvements to Torre Valley North was to be used by Torre Valley North Group on the improvements to Torre Valley North. Torbay Sports Council to monitor future payments”</i>.</p> <p>The Torre Valley Sports Group CIC were consulted and they do not agree with the proposal for a market rent but they appreciate that a 30 month rent free period would provide them with an average rent of £2,000 pa over the first 5 years and £2,000 pa was a rent figure that they had previously agreed. They would like to use the £127,000 capital sum to re-instate the playing pitches at Torre Valley North and then retain the balance for use towards further improvements. In particular the CIC have indicated that they would use any surplus funding to provide match-funding towards a new Pavilion and changing facility as well as a 60 metre indoor running track.</p> <p>Torre Valley Sports Group CIC would therefore like some clarification over what will happen to the remaining balance of the £127,000 after the pitches are realigned as originally proposed. They have also asked for confirmation about the tenant’s break clause and officers have confirmed that the tenant will have a right to break at each rent review. Furthermore they have requested assurances that they would not require planning permission for the extension of the bank at the southern end of the ground or that if consent was required that it would not be withheld. Officers are not in a position to provide these assurances. Finally, Torre Valley Sports Group CIC have indicated that they would be willing to sign an agreement to lease whilst the above issues are discussed.</p>
<p>12.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>See above.</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
	People with caring Responsibilities	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

	<p>respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>		
<p>People with a disability</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Women or men</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

	equality.		
<p>People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i></p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Religion or belief (including lack of belief)</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

<p>People who are lesbian, gay or bisexual</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>People who are transgendered</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

<p>People who are in a marriage or civil partnership</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Women who are pregnant / on maternity leave</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

<p>Socio-economic impacts (Including impact on child poverty issues and deprivation)</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	
<p>Public Health impacts (How will your proposal impact on the general health of the population of Torbay)</p>	<p>A long lease for the TVN CIC should bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby the CIC will help the sports clubs to positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new lease will ensure that the CIC clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a Market Rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport. However, the CIC may be granted a rent free period and can also apply for a grant to offset the market rent in future years.</p>	

14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	N/A
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	N/A