

# CABINET MEETING

## Agenda Item 151

Brighton & Hove City Council

<b>Subject:</b>	<b>Community Stadium</b>		
<b>Date of Meeting:</b>	<b>15 January 2009</b>		
<b>Report of:</b>	<b>Director of Environment</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Chris Mortimer</b>	<b>Tel:</b> 292556
	<b>E-mail:</b>	<b>chris.mortimer@brighton-hove.gov.uk</b>	
<b>Key Decision:</b>	<b>Yes</b>	<b>Forward Plan No. CAB2197</b>	
<b>Wards Affected:</b>	<b>All</b>		

The special circumstances for non-compliance with Council Procedure Rule 23, Access to Information Rule 5 and Section 100B(4) of the Local Government Act as amended (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) are that details of negotiations with the football club could not be completed in time for the despatch of the agenda.

### FOR GENERAL RELEASE

#### 1. SUMMARY AND POLICY CONTEXT

- 1.1 This report makes recommendations for the terms of disposal of the site for the Community Stadium.

#### 2. RECOMMENDATIONS

- (1) That Cabinet approves the council entering into an Agreement for Lease with The Community Stadium Ltd and the University of Brighton under the terms set out in the Part 2 report.
- (2) That Cabinet agrees that authority for discharging the Funding Condition in the Agreement for Lease be delegated to the Director of Finance and Resources and the Assistant Director of Finance (section 151 officer) in consultation with the Leader of the Council.
- (3) That Cabinet agrees in principle (subject to any S123 consent required) a lease of the Stadium site to The Community Stadium Ltd on substantially the terms set out in the Part 2 report.
- (4) That Cabinet notes the decision of Policy and Resources Committee in September 2007 that the council will support the Community Stadium scheme so far as is consistent with not directly funding the project.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS**

#### **The site at Falmer**

- 3.1 The council identified the site at Falmer for a new football stadium for Brighton and Hove Albion in 1997. This was supported by a local referendum in 1999 and was followed by allocation in the draft local plan in 2000. In June 2002 the council's planning applications sub-committee resolved that it was minded to grant approval for the new stadium at Falmer. Subsequently the scheme was called-in by the secretary of state and, following two public inquiries and a further period of representations, was eventually granted planning permission in July 2007. The club are currently seeking planning approval to a series of design changes to the stadium and a proposal to spread excavated chalk on an adjacent field also owned by the council.
- 3.2 In September 2007, the council's Policy and Resources Committee reaffirmed the council's role as landowner as one of facilitating the scheme through transfer of the site and assisting with implementing the scheme so far as was consistent with not directly funding the project. This report addresses the agreements which now need to be concluded between the council as one of the landowners of the stadium site and The Community Stadium Ltd ("the club"), together with the other landowner, the University of Brighton ("the university"). Subsequently, the council will be required to sign off the business case both in its role as landowner and its role as local planning authority.
- 3.3 The site at Falmer is shown on the plan at Annex A. The site in the council's ownership amounts to 6.2ha, with a further 2.25ha owned by the university. The two sites together form the land which is the subject of the agreement for lease and the lease. The tenant farmer has quit his tenancy in relation to this part of his holding and the costs of securing vacant possession of the council land have been borne by the club. At present, the club have a licence of the council part of the Stadium site in order to carry out preliminary works to widen Village Way in advance of the main contract for the stadium which is planned to start in April 2009 and complete in time for the 2011/12 football season. These preliminary works are outwith the provisions of the agreement for lease.

#### **Previous Decisions**

- 3.4 The principles of the agreement for lease and lease between the council, the university and the club were established before completion of the first public inquiry into the application for the stadium. The relevant decisions were:

##### Policy and Resources Committee 16 January 2003

- agreed proposed Heads of Terms generally acceptable
- agreed principle that council would forego receipt of money for the site, subject to any S123 consent required and that economic and community benefits for disposal at less than market value needed to be demonstrated.

### Policy and Resources Committee 26 March 2003

- agreed final Heads of Terms subject to including a condition requiring a satisfactory business case

### Policy and Resources Committee 19 November 2003

- noted that the council as landowner had completed Heads of Terms in October 2003 on substantially the same terms as those included in the March 2003 report

3.5 Following the completed heads of terms a draft agreement for lease and lease were negotiated between the parties but were not completed because of the uncertainty about whether the project would gain planning permission. Following the grant of planning permission in July 2007 and the subsequent review of the project by the club, it became clear that the documentation needed to be revisited to address changes since the original negotiations and to resolve outstanding issues.

#### **The Agreement for Lease**

3.6 This agreement is a conditional agreement providing for two separate site possessions once conditions relating to those possessions have been met. The main conditions relating to release of the council land are the grant of planning permission for the current planning application and the approval of the funding. Other terms are set out in the Part 2 report.

#### **The Lease**

3.7 The lease structure provides for the university and the council to grant a lease to the club on practical completion of the stadium. The terms are set out in the Part 2 report.

#### **S123 consent**

3.8 The council agreed the heads of terms of the land deal in January 2003, including the disposal of the council land at a nil consideration, subject to any S123 consent required. Where land is held under the Local Government Act 1972, S123 consent is required to be given by the secretary of state for any disposal at less than best consideration. Where the undervalue is less than £2m and the disposal helps the council to secure the promotion or improvement of the economic, social or environmental well-being of its area, reliance can be placed on the terms of the General Disposal Consent issued on 4 August 2003. Where the amount foregone is greater than £2m specific consent needs to be sought from the secretary of state. While an application for specific consent does not need to meet the well-being test, in practice it would be strongly assisted by demonstrating that the proposal delivers these benefits.

- 3.9 When the council considered this matter in January 2003 a list of the community and economic benefits arising from the stadium project was listed in order to support the recommendation for disposal at nil consideration. An update of these benefits flowing from the present scheme is at Annex B. On this basis it is recommended that cabinet reaffirm the previous agreement to dispose of the stadium site at nil consideration and seek any S123 consent necessary.

### **Linked issues**

- 3.10 There are two linked issues in respect of the delivery of the stadium:

- i) **Chalk spreading.** The club are seeking planning approval to spreading 127,000 m<sup>3</sup> of excavated chalk from the site over an adjacent field owned by the council and let to a tenant farmer. Should planning permission be granted a separate agreement covering this arrangement will be required.
- ii) **City College.** The club's present planning permission includes 2000m<sup>2</sup> of B1 offices in the east stand of the stadium. The current planning application seeks approval to change of use to teaching accommodation for City College.

## **4. CONSULTATION**

- 4.1 Aside from legal and financial consultation, the Assistant Director Property and Design has been involved in valuation and disposal issues in connection with the stadium site and has commented accordingly. The legal negotiations have taken place with the club and the university.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### **5.1 Financial Implications:**

- i) The financial implications arising from this matter are generally included within the text of the report.
- ii) Site possession by the club can not take place until the Director of Finance & Resources / Section 151 Officer is satisfied that the club's business case can be fully funded.
- iii) The agreement for lease places an obligation on the council to monitor the progress of the works and to report to the university. This will require some technical support which will need to be funded from a bid to the SIF fund in 2009/10 and subsequent years.

*Finance Officer consulted: Peter Sargent Date: 22 December 08*

### **5.2 Legal Implications:**

The main legal implications are included in paragraphs 3.6 to 3.9 of this report and also in the Part 2 report.

*Lawyer consulted: Bob Bruce Date: 18 December 08*

#### Equalities Implications:

- 5.3 The provision of a new stadium will vastly improve access for people with disabilities compared with the present Withdean Stadium. The new stadium will also enable the club to provide improved facilities for Albion in the Community. This part of the club delivers schemes such as the Football Inclusion Project which aims to provide football opportunities for socially excluded young people, the Disability Football Project and the Study Support Centre.

#### Sustainability Implications:

- 5.4 There are no direct sustainability implications arising from this report. The present planning application for the changes to the stadium includes a range of sustainability measures including ensuring that the project achieves a rating of BREEAM Very Good.

#### Crime & Disorder Implications:

- 5.5 There are no direct crime and disorder implications arising from this report. There is a separate Campus and Environs Management Plan agreement which provides for specific planning for match days including security, stewarding etc. The club works in close co-operation with Sussex Police.

#### Risk & Opportunity Management Implications:

- 5.6 *see part 2 report*

#### Corporate / Citywide Implications:

- 5.7 The provision of a Community Stadium as a permanent home for Brighton and Hove Albion has been a council priority for many years and its achievement would be a significant social, economic, educational and cultural boost for the city.

### **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The second public inquiry exhaustively examined alternative sites for the football stadium and concluded that Falmer was the only suitable site.

### **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 This report seeks approval to land transactions which have been contemplated since the principle of the new stadium at Falmer was first established. Its recommendations are in the context of decisions taken by the council in 2003 which formed the basis for the public inquiries and the planning permission granted by the Secretary of State in July 2007.

## **SUPPORTING DOCUMENTATION**

### **Annexes:**

- A Plan of the stadium site
- B Community and economic benefits to support application for S123 consent

**ANNEX A**

**PLAN OF THE SITE FOR THE STADIUM SHOWING COUNCIL AND UNIVERSITY  
OF BRIGHTON OWNERSHIPS**

