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## **Summary Sheet**

### **Name of Committee and Date of Committee Meeting**

Cabinet – 17 December 2018

### **Report Title**

Lease of Green Space, School Lane, Parkgate to Rotherham United Community Sports Trust (RUCST)

### **Is this a Key Decision and has it been included on the Forward Plan?**

No

### **Strategic Director Approving Submission of the Report**

Paul Woodcock, Acting Strategic Director of Regeneration & Environment

### **Report Author(s)**

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### **Ward(s) Affected**

Rawmarsh

### **Executive Summary**

Part of the recreation ground at School Lane, Parkgate has been leased to Inzone (Yorkshire) Community Interest Company since 2014 under the Asset Transfer Policy. The lessee now wishes to surrender their lease and there is a risk that valuable facilities and infrastructure that they have invested in would be lost as a consequence. It is therefore proposed that the lease be reassigned to Rotherham United Community Sports Trust (RUCST) who have confirmed they would purchase, maintain and provide these facilities for continued community use. RUCST would need to access grant funding to operate and develop the site, and such funding is dependent on them having tenure of the site for 25 years without break clauses. Since this is a deviation from Policy, this report seeks approval to grant an Asset Transfer Policy Lease Agreement to RUCST without break options and sets out the special circumstances which relate to this.

### **Recommendations**

1. That approval be given to the grant of a new Asset Transfer Policy Lease Agreement, as detailed in Option 1 of this report on land at School Lane, Parkgate, as shown edged in blue in the site plan at Appendix 1.

2. That the Assistant Director of Planning Regeneration and Transport negotiate and agree the terms and conditions of the lease.
3. That the Assistant Director of Culture, Sport and Tourism Service agree and monitor the service level agreement.
4. The Assistant Director of Legal Services negotiate and complete the necessary documentation.

**List of Appendices Included**

Appendix 1 Location and Site plan

Appendix 2 About Rotherham United Community Sports Trust

**Background papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## **Lease of Green Space, School Lane, Parkgate to Rotherham United Community Sports Trust (RUCST)**

### **1. Recommendations**

- 1.1 That approval the grant of a new Asset Transfer Policy Lease Agreement, as detailed in Option 1 of this report on land at School Lane, Parkgate, as shown edged in blue in the site plan at Appendix 1.
- 1.2 That the Assistant Director of Planning Regeneration and Transport negotiate and agree the terms and conditions of the lease.
- 1.3 That the Assistant Director of Culture, Sport and Tourism Service agree and monitor the service level agreement.
- 1.4 The Assistant Director of Legal Services negotiate and complete the necessary documentation.

### **2. Background:**

- 2.1 Inzone (Yorkshire) Community Interest Company (IYCIC) requested the Council's consent to reassign its lease at School Lane, Parkgate to Rotherham United Community Sports Trust (RUCST) due to the personal circumstances of key personnel within the company. However, during the legal appraisal of the assignment (under delegated authority), it became apparent that the clauses in the existing lease will not meet the needs of RUCST. Accordingly, RUCST has now requested that the Council grant them a lease of the subject land for a period of 25 years, excluding any break clause and with the ability for RUCST to assign the Lease with the written consent of the Council.
- 2.2 Tenure for 25 years without break clauses is a funding requirement of the Football Foundation who are potential future funders and therefore provide surety for RUCST's purchase from IYCIC of the infrastructure previously installed by them, and to enable RUCST to access future funding to further develop the facility for sport and physical activity.
- 2.3 IYCIC occupy the subject land under an existing Asset Transfer Policy lease of 25 years that expires in 2039 (with rolling break clauses). When IYCIC was granted the lease in 2014 it then invested in and built the facility that currently provides community access into a sports facility during the week and weekends with RUCST being one of the major users.
- 2.4 RUCST propose to continue to operate the existing football facility that includes small-sided synthetic grass pitches, secure fencing, floodlighting, changing rooms and a viewing and waiting area for spectators; along with possible development of the sports facilities through future grant funding opportunity.
- 2.5 The key focus of RUCST is the delivery of sport and physical activity initiatives for social benefits such as health and wellbeing, education, volunteering and general participation.

- 2.6 The existing facility/infrastructure on site has been installed by IYCIC and as such will be purchased by RUCST through a separate arrangement, at its own risk, directly with them. The actual amount to be agreed by the two parties is unconfirmed at this stage.
- 2.7 The indicative price for the facility will be a substantial investment by RUCST who in return require surety from the Council to enable it to use this facility over the next 25 years, hence its request for a new 25 year lease without a break clause and with the ability for the Lessee to assign the Lease, from the Council. There is no requirement for the Council to remove the current facility should RUCST be granted the lease.
- 2.8 The subject land is allocated as urban green space within the recently adopted Local Plan. The Greenspace Audit (a local study of green space provision in Rotherham) identified this greenspace as being of low value to the community for recreation; primarily because the land is surrounded by industrial and commercial properties. The Council has previously provided a marked football pitch on the site before it was leased to IYCIC, but this was discontinued some years ago due to the lack of demand for pitch hire.
- 2.9 RUCST has submitted a development plan and accounts in order to show that they have suitable aims and objectives and to show that their proposed business model is likely to be sustainable.

### **3. Key Issues**

- 3.1 The surrender and grant of a new lease is technically a departure from Council procedure. Normally when a lease of this nature is surrendered it is returned to the Council and Expressions of Interest will then be sought from the wider community to establish any interest in the land.
- 3.2 Under special circumstances, the Council can decide to depart from procedure if it is justifiable. In this case, the special circumstances are that IYCIC built the facility using its own money and also that a willing community group (RUCST) has come forward with the funds available to invest in the continued use of the facility for sports and physical activity purposes and for the benefit of the community.
- 3.3 In order for the Council to grant a new lease to RUCST, IYCIC will need to surrender its lease. IYCIC wish to do this in order to recover their investment in the new facility directly from RUCST. These matters will be coordinated to complete on the same day.
- 3.4 Alternatively, if it is unable to recover its money, IYCIC has up to 2039 to continue to run the facility themselves. However, IYCIC has confirmed it does not wish to do this, and has indicated its intention to surrender its lease back to the Council and remove this facility from the land themselves (as they are obliged to do under the lease) in such circumstances.

- 3.5 Rotherham United Community Sports Trust (RUCST) works alongside Rotherham United Football Club to bring a better quality of life to various groups across Rotherham. The Trust has provided sufficient evidence that it meets the qualifying criteria for the applicant as set out in the Council's Asset Transfer Policy. More information about RUCST is set out in Appendix 2.
- 3.6 Under the Council's current adopted Asset Transfer Policy, all agreements shall contain a break option in favour of the Council, in the unlikely but possible event that the asset transferred by way of a lease or licence is required for wider community development directly (the asset or surrounding site itself) or indirectly (for the benefit of a capital receipt).
- 3.7 Without any break options contained within the lease, the Council will only be able to terminate the agreement before the expiry of the fixed 25 year term if RUCST are in breach of their obligations under the terms of the agreement. Furthermore there is a presumption against the lessee being able to assign, charge, underlet or part with possession of the whole or any part of the land.
- 3.8 The Service Level Agreement is an appendix to the lease agreement and this enables the Council to agree actions and objectives in line with the current needs and aspirations of the local community and the work of the Culture Sport and Tourism service.

#### **4. Options considered and recommended proposal**

- 4.1 **Preferred Option 1** – That Cabinet resolves to accept the surrender from IYCIC and grant a new 25 year Asset Transfer lease of the land as shown edged in blue on the site plan at Appendix 1 to Rotherham United Community Sports Trust (RUCST) without a break clause and with the ability for the Lessee to assign the Lease with the written consent of the Lessor not to be unreasonably withheld. This will provide RUCST with the surety it requires to purchase the facility directly from IYCIC; then continue to maintain and potentially develop the facility in line with their proposals. The surety of a new lease without break clauses will also enable RUCST to secure future funding applications and assist in meeting their objectives. The maintenance of this area by RUCST would reduce the financial commitment of the Council to maintain the site, whilst allowing recreational facilities to be provided through RUCST. The adjacent part of this greenspace will still be retained by the Council as open access to cater for any continuing demand for dog walking and other informal use. For these reasons it is recommended that this option is pursued.

- 4.2 **Option 2** – That Cabinet resolves to accept the surrender of IYCIC’s lease and consequently request IYCIC to restore the site to its former cleared green space use with all its facility and infrastructure removed. The Council will then retain and maintain the entire site as open space. However, if IYCIC decide to surrender its lease then the future maintenance of this land will be at cost to the Council, at a time when it is tasked to seek reductions in grounds maintenance operations in response to reduced budgets. This in turn would reduce use of the space for sport and physical activity. As such, option 2 is not the preferred option because of the increased strain on reduced budgets and the negative impact on the active use of this site.

## **5. Consultation**

- 5.1 Consultation has been carried out with Rawmarsh Ashwood Primary School and Rawmarsh Ward Members. No objections were raised.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 If it is resolved in December 2018 to approve the recommendations in item 1 of this report, then negotiations to agree the terms of the lease will commence immediately thereafter. The Lease and Service Level Agreement will be completed as soon as is reasonably and practicably possible.

## **7. Finance and Procurement Implications**

- 7.1 There are no financial implications to the Council directly arising from this report. Approval to issue a lease, terminating in 2043, will remove any flexibility that the Council has over the site. However, this is considered to be outweighed by the investment that will be made in the facilities by RUCST and the wider community benefits that will ensue.
- 7.2 The Council’s legal and surveyors’ fees will need to be met by RUCST upfront prior to any work being undertaken. RUCST will also be responsible for the additional costs incurred by the Council for the surrender of the existing lease and any other associated costs.
- 7.3 Under the terms of the existing agreement IYCIC is responsible for all costs associated with the buildings and playing pitches, including the cost of grounds maintenance. This will transfer to the proposed new lease agreement with RUCST.

## **8. Legal Implications**

- 8.1 Without any break clauses contained within the lease, the Council will be unable to terminate the agreement before the expiry of the fixed 25 year term, in the eventuality that it is ever required for wider community development directly (the asset or surrounding site itself) or indirectly (for the benefit of a capital receipt). The Council will only be able to terminate the lease if RUCST is in material breach of its obligations under the terms of the Service Level Agreement. Breaches will include failure to manage the site to a satisfactory standard. Legal Services will also ensure that the new lease is excluded from the security of tenure provisions of the Landlord & Tenant Act 1954 in order to mitigate this limitation to expiry of the lease in 2043
- 8.2 The Service Level Agreement is a legally binding agreement between the parties. This document sits alongside the formal lease and determines the additional requirements from the lessee. The Council would be able to take action for any breach in the Service Level Agreement in keeping with the terms of the current, and any new, Lease Agreement.
- 8.3 It will be RUCST's responsibility to provide the land back to the Council at the end of the lease in at least as good a condition as it was when the lease was granted including removing any fixtures or fittings [as evidenced by a Schedule of Condition].
- 8.4 There should be no claim by any proposed funders to the Council or RUCST after the 25 year lease term has ended.
- 8.5 If the Council was to take back the land under forfeiture of the lease or the RUCST itself served notice on the Council to end the lease agreement before the 25 year expiry, RUCST would solely be responsible for any funding repayments that may exist.

## **9. Human Resource Implications**

- 9.1 None

## **10. Implications for Children and Young People and Vulnerable Adults**

- 10.1 The granting of the lease agreement without the inclusion of break-clauses will enable RUCST to secure grant funding to allow potential improvements/ additions to be undertaken to the site that will improve the facility for the benefit of children, young people and adults.
- 10.2 The Service Level Agreement will also include a strong focus on safeguarding as part of a wider commitment to strengthening policy and practice in this area and in particular, how the Council works with third parties.

## **11. Equalities and Human Rights Implications**

- 11.1 Through monitoring systems already in place by RUCST and the Service Level Agreement, membership will be monitored, along with their efforts to increase diversity in the take up of their activities in order to ensure engagement from under represented sectors of the community.

## **12. Implications for Partners and Other Directorates**

- 12.1 Asset Management Service will be required to negotiate the terms of the lease and Legal Services will be required to complete the necessary documentation.

## **13. Risks and Mitigation**

- 13.1 If RUCST are not granted a lease for the site then IYCIC has indicated that it would still seek to surrender its lease and this might lead to the removal of facilities and infrastructure that was installed by them. This would have a negative impact on the current users and on levels of participation in sport and physical activity.
- 13.2 The site is important to RUCST in growing and expanding their business and offer of sport and physical activity to the residents of Rotherham. If RUCST is not granted a 25 year lease without breaks they will be unable to draw down external grant funding. This could jeopardise the long term community aims and objectives of the organisation, and would also hinder their attempts to obtain funding from alternative sources.

## **14. Accountable Officer(s)**

Bronwen Knight, Acting Assistant Director Planning, Regeneration & Transport  
Polly Hamilton, Assistant Director, Culture, Sport & Tourism  
Chris Siddall, Sport & Leisure Manager

Approvals obtained on behalf of:-

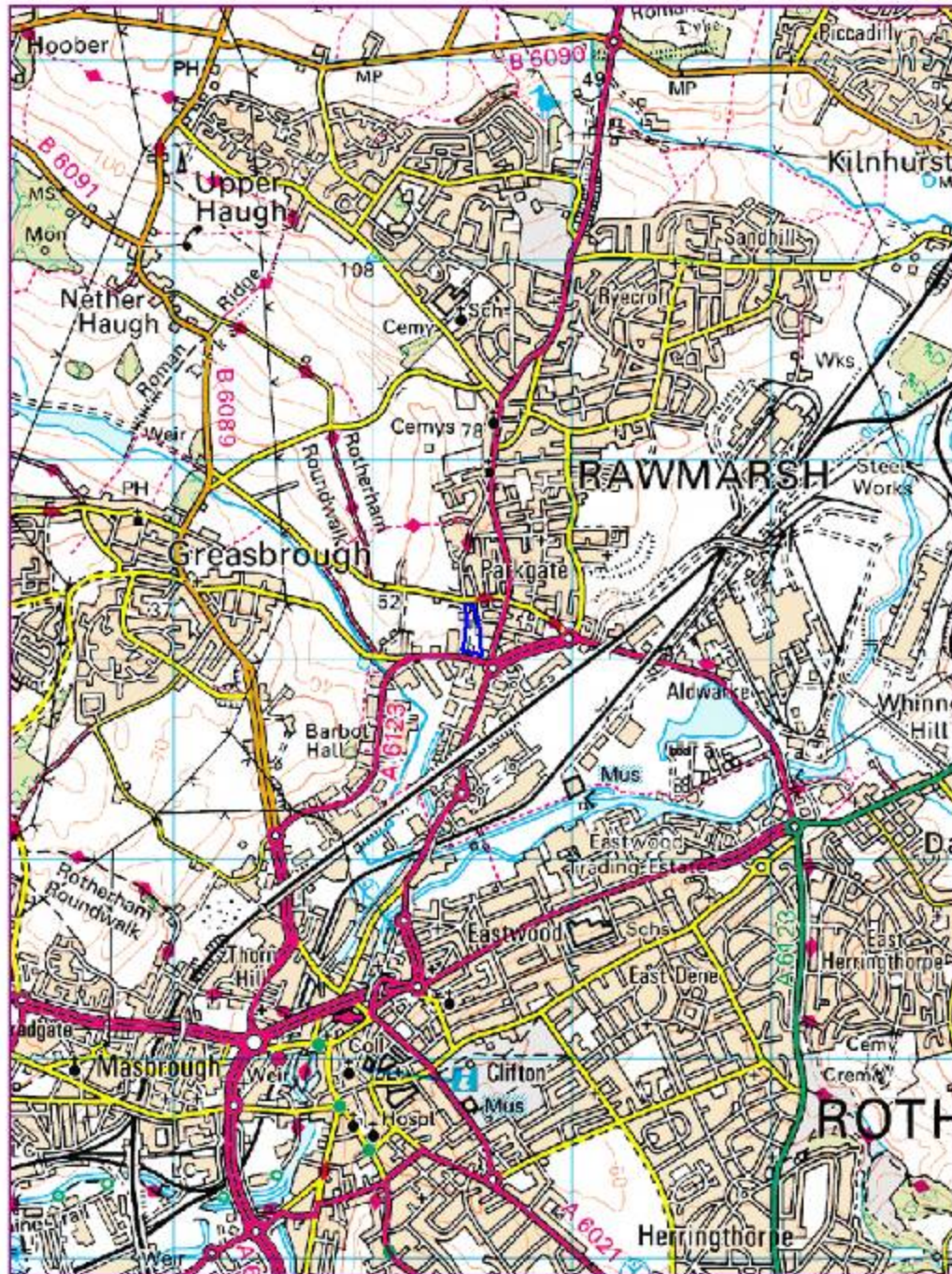
	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services (S.151 Officer)	Jon Baggaley	03.07.2018
Assistant Director of Legal Services (Monitoring Officer)	Lesley Doyle	23.07.2018
Assistant Director of Human Resources (if appropriate)	Jon Crutchley	03.07.2018
Head of Procurement (if appropriate)	Joanne Kirk	15.11.2018

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This report is published on the Council's [website](#).



Site Location:



School Lane, Parkgate

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**Site Plan:**



## **Appendix 2 – About Rotherham United Community Sports Trust (RUCST)**

Rotherham United Community Sports Trust (RUCST) works alongside Rotherham United Football Club to bring a better standard of living to various groups across Rotherham.

The Trust is a community development programme that works across the borough of Rotherham in deprived areas with different communities and age groups, delivering under the three main themes of the Football League Trust of Education, Health & Wellbeing and Sport & Community Development.

RUCST is a charitable company registered under company registration number 06451012 and charity number: 1123692.

Under the terms of its charitable objectives, RUCST is set up to fulfil its objectives, operating:

- for the benefit of the public generally and in particular the residents of South Yorkshire and its surrounding areas;
- to promote community participation in healthy recreation by providing facilities for the playing of association football and other sports capable of improving health;
- to provide and assist in providing facilities for sport, recreation or other leisure time occupation of such persons who have need for such facilities by reason of their youth, age, infirmity or disablement, poverty or social and economic circumstances or for the public at large in the interests of social welfare and with the object of improving their conditions of life; and
- to advance the education of children and young people.

Rotherham United Community Sports Trust is a partner on the Rotherham Activity Partnership and also supports a range of other initiatives, such as the National Citizenship Programme, the Social Commissioning pilot and project activity under the Controlling Migration Fund for the Building Stronger Communities Forum.