

OUTLINE PROPOSAL FOR THE MANAGEMENT OF KINGS HILL SPORTS PARK

**Prepared and presented by Martin Guyton and Kirstin
Brimsted for Kings Hill Parish Council – 16 December 2020**



1.0 BACKGROUND TO TONBRIDGE & MALLING LEISURE TRUST

- 1.1 Tonbridge and Malling Leisure Trust, trading as ttractive, is an independent Company Limited by Guarantee incorporated in March 2013 and that commenced trading on 1 November 2013. The Trust is also a Registered Charity and was formed entirely in the public benefit. It is an entirely separate legal entity to Tonbridge & Malling Borough Council (TMBC).
- 1.2 It is a Non-Profit Distributing Organisation (NPDO) with all profits re-invested in existing facilities and services. The Board of Trustees all live and/or work in the Borough and are volunteers. They also act as Directors of the Company but receive no remuneration or dividend. There are no shareholders in the Company.
- 1.3 The current portfolio of facilities operated by the Trust are owned by TMBC and comprise the following;
- Larkfield Leisure Centre
 - Angel Centre, Tonbridge
 - Tonbridge Swimming Pool
 - Poulton Wood Golf Centre
 - Tonbridge Racecourse Sportsground
 - Tonbridge Farm Sportsground
- 1.4 The facilities described above are operated on a long-term Lease and concurrent Management Agreement until 31 March 2033. There is no break clause in the documentation however the financial arrangement is reviewed every five years. In the event of breach of either document, both fall together. The leases are contracted out of the Landlord and Tenant Act (1954) meaning that at the end of term, assuming an extension is not negotiated, the Trust has to vacate and return the premises to TMBC. It is the Trust's intention to enter negotiations to extend following the next round of financial review in 2023.
- 1.5 The latest audited accounts for the year ending 31 March 2020, approved at the recent Annual General Meeting show turnover in that financial year to be just in excess of £7m with the Trust holding just short of £1m cash at bank and net assets excluding pension liability of over £1.6m. The Trust employs over 420 local people in full time, part time and casual roles across the operation.
- 1.6 The Trusts Vision is '**more people, more active, more often**' and the Mission is 'to provide a **clean, safe and happy** leisure experience on an **inclusive** basis to residents and visitors to Tonbridge & Malling for the benefit of their **health and social wellbeing**. We will achieve this in a **sustainable** way through **excellence** in our **people, policies and practice**.'
- 1.7 In common with thousands of businesses in the UK, 2020/21 has proved an exceptional financial challenge with the Trust's facilities forced to close for almost 5 months to date due to the Coronavirus pandemic. Even when allowed to open it has been on the basis of severe restrictions based on social distancing and other control

measures. The Trust has been able to utilise support through the Coronavirus Job Retention Scheme, direct financial support from TMBC, made significant operational savings and used its own reserves to protect its financial position and ensure future sustainability through very turbulent times. Whilst cash and reserves will be seriously depleted at the end of the current financial year the cashflow forecast through until 31 March 2022 sees a gradual return to a strong, stable position akin to that pre-COVID.

2.0 RESOURCES AND EXPERIENCE

2.1 The Trust is led by an Executive Management Team comprising eight experienced senior staff shown below;

- Martin Guyton – Chief Executive
- David Sayle – Head of Finance
- Kirstin Brimsted – Head of Operations (North)
- Gary Littlejohn – Head of Operations (South)
- Wendy Parker – Head of Sales and Marketing
- Ian Mansfield – Head of Facilities and Compliance
- Helen Rocks – Customer Experience Manager
- Samantha Coppin- Derby – Human Resources Manager

2.2 Whilst the entire team will be engaged in ensuring efficient and effective delivery of the Kings Hill Sports Park project should it proceed with the Trust, Martin and Kirstin will take direct joint responsibility for strategic and operational matters.

2.3 Martin worked for TMBC for over 30 years in Leisure Services prior to being asked by the authority to lead the transfer to a Trust in late 2012. That transition took 10 months and he formally took up his current role in November 2013. He holds a Masters Degree in Business Administration, is a Fellow of the Chartered Institute of the Management of Sport and Physical Activity (CIMSPA), long term Chair of the South East Leisure Centre Operators and a National Quest Assessor (the quality award for the public leisure sector). He lives locally with his wife, Head of School at a local infant school and has two children, mercifully now both finished University. Physically active, his sporting endeavor is now confined to the golf course and very regular gym sessions.

2.4 Kirstin was employed as General Manager at Larkfield Leisure Centre (LLC) in March 2010 when it was still part of TMBC. She has been directly involved in the formation of the Trust and its ongoing success. The operation at LLC has grown significantly with the building of additional facilities, funded solely by the Trust, but also taking operations in house such as the catering and the resident dance school, Prima and as a result she was promoted to Head of Operations in 2018. Prior to joining the Trust she has extensive experience having been the Circuit Manager at both Brands Hatch and Donington Park where she was responsible for all events, from small club events all the way up to WSBK, MotoGP and even involvement in the Download Festival.

3.0 ASSESSMENT OF CURRENT POSITION

- 3.1 The Trust's current assessment of the operation of Kings Hill Sports Park is based upon anecdotal evidence provided by Council Officers and Members through the Working Party meetings, analysis of the past three year's financial statements, the report of the Local Council Consultancy considered at the meeting of the Finance and Human Resources Committee of the Parish Council on 25 November 2020, an assessment of the impact of COVID and the Trust's own experience and industry knowledge.
- 3.2 Dealing first with the conclusions contained in the report of the Local Council Consultancy it is apparent to the Trust that the past management of the Sports Park has been fraught with difficulty in terms of financial and strategic management. It is not the ambition of this proposal to dwell on matters past but it would be reckless of the Trust not to acknowledge the findings of the report in considering the way forward.
- 3.3 A combination of 'over-optimistic forecasting', a lack of management resources, 'unproductive tensions within the council and the community', the conflation of the personal and public role of councilors helps reach a conclusion that any plan by the Parish Council regarding future management of the park is likely to be met with 'scepticism'.
- 3.4 The report further concludes that the Parish Council should arrange for a third party professional management company to take over operations at the park and cites the benefit of a 'not for profit' enterprise with a proven track record in the management of community sports and leisure facilities.
- 3.5 The Trust's own assessment of the past three years trading performance mirrors that of the LCC report with the last full year to 31/03/20 showing a trading loss of c£137,500 and the proposed budget for 2021/22 showing a deficit of c£60,000 therefore providing some concern in respect of the level of optimism around income, the unsustainable performance of the café and bar and some other areas of forecast expenditure. The ongoing uncertainty related to COVID-19 casts a further doubt on the forecast.
- 3.6 The current financial year 2020/21 has inevitably been affected by COVID-19 and the most recent management accounts to 31 October 2020 reflect the impact of the pandemic. Whilst there appears some encouragement in turnover both on 3G and grass pitch hire and bar/café during September and October, expenditure remains high with no apparent ability for the Parish Council to utilise the Government's Coronavirus Job Retention Scheme or reduce contract costs during closure and current trading restrictions. It is presumed this situation was exacerbated during the second national lockdown in November.
- 3.7 The bar/café remains of particular concern with historic and forecast losses that appear predicated mainly on excessive staff costs. In 2019/20 staff costs amounted to 96% of turnover and are now currently running around 80% with 2021/22 budget forecast at the same level. By way of comparison the Trust directly operates the

catering facility at Larkfield Leisure Centre with staff cost to turnover ratio of 43%. Even allowing for the relative size of each operation a figure above 50% would be excessive.

4.0 KEY OBJECTIVES

- 4.1 It is clear during our discussion with the Parish Council to date that the overriding objective of any altered management arrangement is to reduce the financial burden of the Sports Park to the Parish Council and, therefore, its residents.
- 4.2 However, in so doing it is the ambition of the Trust for the Sports Park to make a net contribution to its own financial bottom line. As previously stated, the Trust is an NPDO, not to be confused with the slight misnomer of 'not for profit'. As outlined in the LCC report a 'not for profit' organisation is still required to generate surpluses for the purpose of reinvestment. As an NPDO the Trust is committed through its Articles of Association to this approach.
- 4.3 Whilst financial objectives described above are important the community objectives epitomised by the Trust's vision of 'more people, more active, more often' should not be lost in consideration of this proposal. The Trust understands that the Parish Council is equally committed to the physical and mental health and wellbeing of its residents and recognises the local community asset that the Sports Park represents. This local agenda should be the focus of consolidating the Sports Park's financial and operational performance.
- 4.4 In summary the key objectives should form a desire for a 'win, win, win' outcome with savings to the Parish Council, generation of a financial surplus for the Trust and benefit to sports clubs and the wider active resident community of Kings Hill.

5.0 PROPOSED CONTRACTUAL BASIS

- 5.1 The proposed transfer of the management of the Sports Park would be based upon a suite of three key documents.
 - Management Agreement – this sets out the basis of how the Parish Council will fund the Trust and the key outcomes the Trust will deliver in return. It includes a range of operational and contractual detail.
 - Lease – this sets out the buildings and property which are to be leased and the principle terms. It is expected to be a 20-25 year sub-lease of the 125-year Head Lease held by the Parish Council with Rouse Kent Ltd / (Liberty) to ensure the community asset is ultimately retained by the Parish Council.
 - Business Transfer Agreement – This describes what other assets and transfer provisions there are, which only apply at point of transfer. Importantly, it includes provision for the TUPE transfer of staff as appropriate.

- 5.2 The Trust has prepared proposed Heads of Terms for each document, shown at **Annex 1**. If approved the Trust proposes that Joanna Bussell at Winckworth Sherwood prepares draft documentation on behalf of the Trust for consideration. Joanna is a leading Partner in Public Sector Enterprise and Charities at WS Law. She is a foremost expert in this area of legal work. The cost of this work would be re-charged to the Parish Council who may also wish to engage its own legal advisors to review the documentation.
- 5.3 It is important to note that the Management Agreement and Sub-Lease would be inextricably linked and should the Trust or the Parish Council materially default, leading to enforced or voluntary termination of either, then both would fall together. The Sub-Lease would also be contracted out of the Landlord and Tenant Act 1954 to protect the Parish Council from Claiming tenant's rights at the termination date.

6.0 PROPOSED FUNDING ARRANGEMENT

- 6.1 The Heads of Terms shown at **Annex 1** include an outline proposal for the funding arrangement between the Trust and the Parish Council. The proposal takes account of the assessment of the current position described at Section 3 of this report. The financial challenges of the Sports Park over the past few years cannot be rectified overnight and the Trust needs to protect its own financial position whilst seeking to reverse the financial performance of the facility.
- 6.2 The indicative costs and examples that follow are based broadly on the financial information provided to date and the Parish Council's budget forecast and therefore the proposed funding arrangement does not transfer risk to the Trust in the first two years. Instead the Trust will seek a fixed annual Service Fee that buys its expertise and resources whilst the business is stabilised and financial return maximised. Despite this the Trust believes that savings can accrue to the Parish Council in this period but the risk/further reward remains with the Parish Council. The finances would be managed on an 'open book' basis to ensure complete transparency.
- 6.3 The Trust believes that after two years the risk/reward can transfer leaving the Parish Council with a Service Fee (that could be positive or negative) providing budget certainty for the future. It is proposed that the Service Fee is reviewed after each five-year tranche of the sub-lease.

7.0 INDICATIVE COSTS (YEARS ONE & TWO)

- 7.1 The budget forecast shown at **Annex 2** simply transposes the Parish Council's 2021/22 budget forecast into the format used by the Trust. Whilst some budget head descriptors do not match it can be seen that the forecast deficit of £60,010 reflects the draft budget of the Council for the Sports Park and the Bar/Café combined.

7.2 **Annex 3** is a revised budget that makes changes as follows;

- The Trust is exempt of VAT in the delivery of sports services and this is reflected in the income, primarily around 3G and grass pitch hire. As a consequence the Trust has to pay input VAT on services purchased which is shown as irrecoverable VAT. The net benefit is around £15,000 pa.
- The Trust is able to claim 80% mandatory relief on NNDR and will apply for 20% further discretionary relief. There is no reason to assume this would not be granted as with all the other facilities managed by the Trust and this shows a saving of £3,000 pa.
- Utilities costs are reflected at the Trust's current tariff rates which are preferable to those currently in force with the Parish Council's supplier.
- The lease for the mower is removed on the basis the Parish Council will dispose of this asset prior to transfer and is outside the scope of this agreement.
- Catering budgets are adjusted to reflect an increase in trade and reduction in staffing costs to result in a very modest surplus.
- A Service Fee of £18,000 is shown payable to the Trust on the basis of the funding arrangement described in Section 6. This fee simply reflects the savings in VAT and NNDR that the Trust can achieve predicated on its business model. These savings are not available to the Parish Council regardless of how it may seek to directly manage the Sports Park.

7.3 The bottom line at **Annex 3** is a deficit of £30,250 including the fixed Service Fee, a reduction of just under £30,000 or 50% of the current forecast. The operational deficit is reduced to £12,250 excluding the Service Fee. If this budget played out exactly the Parish Council would therefore cover the Service Fee and the operational deficit – the full £30,250.

7.4 Given the risk/reward remains with the Parish Council, as an example in the event the Trust was able to reduce the operational deficit further, say to £10,000 the Parish Council would only pay £28,000 for the first year, whereas if the operational deficit grew to £15,000 the Parish Council would end up paying £33,000. It is anticipated this would be paid quarterly in advance based upon profiled budget and reconciled each quarter to actual performance.

7.5 In Year Two the Service Fee would be subject to an agreed increase based on any movement in VAT/NNDR accrued savings.

7.6 In Year 3 following a clearer understanding of the business a negotiated Service Fee would result in risk/reward transfer to the Trust. However, it is possible at that stage that the Parish Council may wish to consider some form of Gain Share over a certain surplus threshold. The Trust's surpluses over an agreed threshold would be ring-fenced for reinvestment back into the services and facilities at the Sports Park.

7.7 In proposing the indicative budget at **Annex 3** the following caveats should be considered;

- The budget is largely based upon information provided to date by the Parish Council and taken in good faith. This will be subject to detailed due diligence by the Trust ahead of any final offer.
- Any costs of redundancy and contractual notice falling as a consequence of TUPE transfer and business assessment will be recharged to the Parish Council.
- The Trust will not be bound by any contractual arrangements with existing suppliers unless it so chooses.
- No allowance has been made for additional income and expenditure related to further capital investment at the Sports Park.
- Full repairing lease costs remain with the Parish Council where applicable subject to development of a maintenance matrix.
- Major capital replacements such as the 3G pitch remain the responsibility of the Parish Council subject to a pre-agreed schedule.
- The budget assumes the impact of COVID will have been minimised by 1 April 2021 with no significant impact on trading.

8.0 BENEFITS

8.1 It is the view of the Trust that a range of further benefits beyond the financial would accrue from a partnership with the Parish Council.

- Single Agenda – The Trust will bring a clarity of purpose to the operation of the Sports Park, unencumbered by competing financial or community issues.
- De-Politicisation – The separation of the Parish Council as a sole corporate body and individual Councillors from the executive management of the Sports Park will provide clearer lines of communication and swifter decision making for users of the facilities.
- Partnership Building – The Trust is experienced at building partnerships with key user groups and local communities, responding to expressed demand through regular liaison.
- Professionalism – The Trust has an experienced, qualified, multi-disciplinary team of senior managers with direct experience in the management of community-based sports and leisure facilities.
- Resilience – Beyond the Executive Management Team the Trust can provide resilience in staff terms with over 400 employees across a range of disciplines including ground maintenance, operations, catering, health and wellbeing and sports and exercise coaching that can support the needs and development of the Sports Park.

- Industry Access – The Trust is a member of ukactive, Community Leisure UK and an employment partner of CIMSPA, the three leading industry bodies associated with the public leisure sector and these associations provide access to information, support and advice.
- Quality Service – Quest is the only quality award scheme for public sector leisure and involves rigorous assessment of facilities management. Over 800 facilities across the UK are registered through the scheme. The Trust has engaged with Quest, which is owned by Sport England, for two decades and only 15 sites across the UK have achieved the highest accolade of ‘Outstanding’ under the scheme. The Trust is very proud of the fact the Larkfield Leisure Centre and Tonbridge Swimming Pool are both rated ‘Outstanding’ and three times in the last four years the Trust has won the best medium sized operator national award.
- Synergy - The Trust operates other facilities within the Borough and potential exists for users of the Sports Park to benefit from offers, discounts or additional use of these facilities through cross-selling and promotion.

9.0 CLUB/COMMUNITY LIAISON

9.1 As referred to previously in this report the Trust recognises the importance of local sports clubs to the success of the Sports Park.

9.2 In preparing this report the Trust has already engaged proactively with Kings Hill Football Club. The Trust considers KHFC to be a key stakeholder in the Sports Park and building a positive relationship with the football club is imperative to the key objectives described at Section 4 in both a financial and community sense.

9.3 Early engagement suggests that the medium/long term vision of the Trust and KHFC are closely aligned and it is proposed that a liaison committee is formed even prior to commencement of any contract to ensure common purpose is established and built into future planning processes.

9.4 Similarly, initial engagement with Kings Hill Community Tennis Club has taken place mindful of the proposed capital development and to ensure that the Club is central to future proposals. The liaison committee proposed above would incorporate the tennis club and any other stakeholders going forward.

9.5 Despite the key stakeholder status of club users it is also important to recognise the ambition for wider community use of the Sports Park for other forms of physical exercise, events and as an open space. Market research and survey work to establish resident’s opinion will be vital and a User Group established as a priority to understand these needs and potentially drive volunteer engagement.

10.0 TIMESCALE

10.1 It is acknowledged that the ongoing adverse financial impact of the Sports Park on the parish precept is a very current issue influencing budget setting for the next financial year.

10.2 The potential for the management of the Sports Park to transfer to the Trust from 1 April 2021 is a realistic but tight timescale that may only be achieved through swift decision making and proactive partnership working over the next three months. Any proposal would need the approval of the Trust's Board at its meeting on 8 March 2021 to proceed.

11.0 CONCLUSION

11.1 In conclusion the Trust believes the following:

- The Trust can bring resources and experience to the management of the Sports Park. The Trust's charitable business model is consistent with the values of the Parish Council in providing affordable, high quality community leisure facilities to local residents.
- The Parish Council will retain the valuable community asset but be divorced from the executive management function under a governing set of documents that protect local interest. The Trust recognises the local agenda and will provide a clear conduit to development and integration of local sports clubs and the wider active community to maximise use of the facilities.
- Immediate revenue savings can be achieved although financial risk will remain with the Parish Council for two years. It is assumed that the impact of COVID will diminish significantly from 1 April 2021 and be irrelevant in trading terms after two years.
- Medium term business growth can be achieved to allow risk transfer to the Trust from Year Three on a negotiated Service Fee, providing the Parish council with budget certainty.
- The opportunity for a 'win, win, win' outcome providing savings to the Parish Council and its residents, a contribution to the Trust's financial bottom line and benefits to local clubs and the community.

Martin Guyton – Chief Executive
Kirstin Brimsted – Head of Operations

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