

Agenda Item No: 12
Report To: Cabinet
Date of Meeting: 8th November 2018
Report Title: Swan Centre Football Pavilion
Report Author & Job Title: Ben Moyle – Facility Development Manager
Portfolio Holder Cllr. Mike Bennett
Portfolio Holder for: Culture



Summary: This report seeks authority to proceed with a project to replace the outdated and inadequate football changing facilities at the Swan Centre in South Willesborough and replace them with new fit for purpose facilities by working with the local community football club, Kent County Football Association and the Football Foundation

Key Decision: YES

Significantly Affected Wards: South Willesborough and Newtown

Recommendations: **The Cabinet is recommended to:-**

- 1. Authorise the Head of Culture, in consultation with the Director of Law & Governance and the Head of Corporate Property and Projects, to negotiate and agree terms with the Football Foundation and Bromley Green Football Club and thereafter let a contract in accordance with the Contract Procedure Rules for the provision by the Council of a new pavilion as described in the report, subject to (i) securing that the cost (including prudent contingency) will be fully covered by those parties and/or other external grants together with the s.106 contribution allocation referred to in the report, (ii) planning permission having been applied for and granted, and (iii) a project risk analysis having been prepared that is satisfactory in her view, in consultation with those officers. In the event that any of those matters are not satisfactory, the proposal shall be reported back for decision by Members.**
- 2. Authorise the Head of Culture, in consultation with the Head of Legal and Democracy and the Head of Corporate Property and Projects, to negotiate and agree terms with Bromley Green Football Club for**

a lease for the long-term management of the pavilion and associated pathways and fencing on such terms as she, in consultation with those officers, considers appropriate.

3. Authorise the Head of Culture, in consultation with the Head of Legal and Democracy and the Head of Corporate Property and Projects to negotiate and agree terms with the Football Foundation for funding for this proposal.
4. Authorise the Head of Legal and Democracy in consultation with the Head of Culture and the Head of Corporate Property & Projects to execute and complete all necessary documentation to give effect to the above.

Policy Overview: Supports the Council's Corporate Priority 3; Active & Creative Ashford.

Financial Implications: Provision of up to £100,000 S106 contribution as partnership funding towards the overall project which is estimated to be £720,000.

Legal Implications A lease will be developed for Bromley Green Football Club for their occupancy of the new building. The land on which the new building will sit is freehold land owned by the Council but part of the surrounding pathways and the pitches served by the changing rooms are leasehold which may need to be addressed with the leaseholder. In addition Football Foundation regulations are likely to require a restriction to be registered on the Council's leasehold title.

Other Material Implications: The proposed works will have a positive impact on all users of the facility.

Exempt from Publication: **NO**

Background Papers: Contact: Ben Moyle, Facility Development Manager on 01233 330475 or ben.moyle@ashford.gov.uk

Report Title: Swan Centre Football Pavilion

Introduction and Background

1. The existing Swan Centre Recreation Ground football pitches (two adult and three junior), changing rooms and clubhouse social facilities are currently licensed by the Council to Bromley Green Football Club.
2. Consisting of two changing rooms and an official's room the changing block was jointly funded by the Council and the Football Foundation in 2001. This building is of a portacabin type construction. There is a further similar style building consisting of two more changing rooms and social area belonging to the Club, which is in excess of twenty years old. Although the club have worked hard to maintain them, they are now at the end of their useful life. They suffer from leaks and dampness and are now due for replacement.
3. Since the last investment in the site, the club has grown significantly and now has seventeen teams and a total of approaching 300 players. Eleven of those teams are junior teams including mixed gender teams. There are three adult male teams and three disability teams.
4. The existing changing facilities no longer meet the needs of all of those players and are not fit for purpose. They require replacement to meet the demands of the club and users.

Proposal/Current Position

5. The Club is a very important part of the active sports offer in the Borough. It also serves the immediate surrounding areas of South Willesborough and Newtown, which are among the more disadvantaged wards in the Borough. It is important, therefore, that the Council works with the local community to resolve the current issues the club experiences with inadequate facilities.
6. The poor quality of the facilities is causing inadequate separation of older and junior teams, female and disability footballers. This position could lead to unacceptable safeguarding and health and safety issues. When the weather is particularly poor the buildings overflow with parents and players as the facilities cannot cope with the number of people on the site.
7. This report proposes the Council works with the Club, Kent County Football Association (KCFA) and Football Foundation to raise the necessary funds to replace the existing changing facilities and replace them with modern fit for purpose facilities.
8. If approved the project will deliver a new changing block with four changing rooms, toilets, showers, storage and meeting/social area. The new facility should be opened in time for the start of the 2019/2020 football season (subject to the appropriate planning permission being granted and fundraising completed as per paragraph ten below).

9. The main funder for the project is the Football Foundation who members will recall provided significant funding for Pitchside 3G and Spearpoint pavilion. The Foundation may invest up to £600,000 in this project. Under their investment criteria bidders are required to procure works under a design and build framework. The Foundation also require strict standards of design including materials and room sizes in order to ensure the sustainability of their investment.
10. The new facilities will allow the club to continue to operate safely and potentially grow further, so providing more opportunity for people of all ages and abilities to participate in positive healthy activities. They will particularly allow growth in participation by female and disabled footballers. In order to secure funding from the Football Foundation the club has assisted the Council in producing a Site Development Plan and a facility Business Plan.
11. Members will recall the Council agreed to provide £100,000 from S106 funding from Newtown Works (as previously presented to Cabinet in July 2017). The club is close to raising £25,000 and an application will be submitted to the Football Foundation for the balance.
12. It should be noted that the adopted Playing Pitch Strategy (2017 – 2030) for the Borough has identified the Swan Centre facilities as a priority for improvement and the proposal is backed by the Kent County Football Association who agree it is a priority project for them to consider.
13. As landowner and ultimate owner of the new building, it is proposed the Council leads on the procurement and construction of the new facility and then enters into a twenty five year full-repairing lease with the Club.
14. The Council's appointed architects have made an outline planning application to the Local Planning Authority, which is expected to be determined later this year. The detailed specification/employers requirements which will be both robust and sustainable, are currently being developed and will be completed in readiness for the proposal to be competitively tendered early in the New Year, subject to planning permission being granted.
15. The Council will continue to assess the full repairing obligations contained within the lease, with the expectation the repairing obligations are fully costed and are fully met by the users. Once all parties have agreed the detailed specification, the annualised repairing costs will be assessed against the operators' business plan. In the event there is a shortfall within the business plan this will be reported to the earliest available Cabinet report for a decision on whether to subsidise the tenant.

Implications and Risk Assessment

16. By agreeing to proceed with this project the Council will be making a positive contribution towards encouraging active and healthy lifestyles, meeting one of the agreed priorities of the approved Playing Pitch Strategy 2017 – 2030 and working in partnership with a proactive community club.

17. When the new facility is complete, the building will be more energy efficient than the existing facilities, be easier to maintain and be occupied by the club on a long term lease for a period of twenty five years.
18. If the funding bid to the Football Foundation is successful it will see external funding of up to £600,000 being drawn into some of the more disadvantaged wards in the Borough. The funding will allow the club to remain on the site and potentially expand further, ensuring the longevity of the club and access to first class facilities for the community for at least another twenty five years.
19. The main risks attached to the project relate to attracting sufficient funding to fulfil the requirements of the club and securing planning permission which was applied for on 2/10/18. Also, the potential risk of an increase in construction costs while the appropriate works are being tendered. To mitigate against those risks, close contact with potential funders and the planning department will be maintained to ensure their requirements are understood and met wherever possible. Also, to proceed as swiftly as possible with the project if approval to proceed is granted. In addition, close liaison will be maintained with the KCFA and potential builders who have experience in delivering similar facilities to avoid unforeseen increases in costs.
20. Longer term there is the risk of the football club's business plan failing and the club being unable to maintain the building. The risk is mitigated in that the club has been in existence for over 80 years, has never been stronger in terms of playing members and teams and has an experienced management committee who have guided the club to this position of strength in spite of the wholly inadequate facilities they currently occupy. In addition the club can call on a multi-skilled voluntary force. The lease will include 10 year break clauses in favour of both landlord and tenant.

Equalities Impact Assessment

21. At this stage it is believed that the proposed works will have a positive impact on all users of the improved facilities.

Consultation Planned or Undertaken

22. The proposals have been discussed with the Bromley Green Football Club, other SWAN Centre site users, Kent County Football Association, Football Foundation, Ward Members, Portfolio Holder and representatives of the planning department.
23. Further consultation with users and appropriate stakeholders will be carried out as the designs for the new facility are confirmed and funding bids are completed.

Other Options Considered

24. There are two alternatives. The first would be to do nothing and leave the existing facilities as they are. If this option is chosen that would eventually lead to a decline in the condition of the facilities to the point where they are unusable and the closure of the club.

25. The second option would be to consider providing a smaller, cheaper facility with only two changing rooms with a view to providing extra changing rooms in the future. However, this would not allow the club to maintain their existing membership numbers. This in turn would mean they are not able to fulfil the obligations of their Site Development Plan and meet the application criteria for the Football Foundation.

Reasons for Supporting Option Recommended

26. In order for the club to maintain its current level of membership and continue to grow in response to the needs of the local community, it is vital they have appropriate fit for purpose facilities to operate from.
27. As noted in paragraph six above, there is the potential for a breach in health and safety and safeguarding guidelines if the problems with the current facilities are not addressed.
28. The club have been proactive in addressing these issues and have already managed to raise nearly £25,000 towards the cost of the new facility and will continue to seek sponsorship and other grants from appropriate sources.
29. This project has been identified as a priority for the Borough Council and the KCFA to support.

Next Steps in Process

30. If the project is approved the next steps will be to tender for quotations for the removal of the old buildings, construction of a new club house and any amendments needed to the parking arrangements; Once planning permission has been granted (anticipated on 27/11/18), an application to the Football Foundation can be submitted for their Panel's approval in January 2019 then a procurement exercise completed in time to allow for construction works to take place during the close season of 2019, with the new facility opened in September 2019.

Conclusion

31. If approved, this project will lead to the provision of new first class facilities in one of the areas of greatest need in the Borough. It will enhance opportunities for a healthy lifestyle and support a local community that club that only delivers grass roots sport but also plays an important role in the cohesion of the local community.

Portfolio Holder's Views

32. This detailed report sets out the clear objectives of the council's aspirations to provide first class sporting facilities for our residents and I fully support the recommendations - Cllr Mike Bennett

Contact and Email

ben.moyle@ashford.gov.uk

Equality Impact Assessment

1. An Equality Impact Assessment (EIA) is a document that summarises how the council has had due regard to the public sector equality duty (Equality Act 2010) in its decision-making. Although there is no legal duty to produce an EIA, the Council must have **due regard** to the equality duty and an EIA is recognised as the best method of fulfilling that duty. It can assist the Council in making a judgment as to whether a policy or other decision will have unintended negative consequences for certain people and help maximise the positive impacts of policy change. An EIA can lead to one of four consequences:

- (a) No major change – the policy or other decision is robust with no potential for discrimination or adverse impact. Opportunities to promote equality have been taken;
- (b) Adjust the policy or decision to remove barriers or better promote equality as identified in the EIA;
- (c) Continue the policy – if the EIA identifies potential for adverse impact, set out compelling justification for continuing;
- (d) Stop and remove the policy where actual or potential unlawful discrimination is identified.

Public sector equality duty

2. The Equality Act 2010 places a duty on the council, when exercising public functions, to have due regard to the need to:
- (a) Eliminate discrimination, harassment and victimisation;
 - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it (ie tackling prejudice and promoting understanding between people from different groups).

3. These are known as the three aims of the general equality duty.

Protected characteristics

4. The Equality Act 2010 sets out nine protected characteristics for the purpose of the equality duty:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership*
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due regard

5. Having 'due regard' is about using good equality information and analysis at the right time as part of decision-making procedures.
6. To 'have due regard' means that in making decisions and in its other day-to-day activities the council must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations. This can involve:
- removing or minimising disadvantages suffered by people due to their protected characteristics.
 - taking steps to meet the needs of people with certain protected characteristics when these are different from the needs of other people.
 - Encouraging people with certain protected characteristics to participate in public life or in other activities where it is disproportionately low.
7. How much regard is 'due' will depend on the circumstances. The greater the

potential impact, the higher the regard required by the duty. Examples of functions and decisions likely to engage the duty include: policy decisions, budget decisions, public appointments, service provision, statutory discretion, decisions on individuals, employing staff and procurement of goods and services.

8. In terms of timing:

- Having 'due regard' should be considered at the inception of any decision or proposed policy or service development or change.
- Due regard should be considered throughout development of a decision. Notes shall be taken and kept on file as to how due regard has been had to the equality duty in research, meetings, project teams, consultations etc.
- The completion of the EIA is a way of effectively summarising this and it should inform final decision-making.

Case law principles

9. A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty and so EIA's must be attached to any relevant committee reports.
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the public authority.
- The duty is a continuing one so that it needs to be considered not only when a

policy, for example, is being developed and agreed but also when it is implemented.

- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

The Equality and Human Rights Commission has produced helpful guidance on "Meeting the Equality Duty in Policy and Decision-Making" (October 2014). It is available on the following link and report authors should read and follow this when developing or reporting on proposals for policy or service development or change and other decisions likely to engage the equality duty. [Equality Duty in decision-making](#)

Lead officer:	Ben Moyle
Decision maker:	Cabinet
Decision: <ul style="list-style-type: none"> • Policy, project, service, contract • Review, change, new, stop 	Release Section 106 contributions to match fund external funding for a new pavilion to serve the football facilities at the SWAN Centre.
Date of decision: The date when the final decision is made. The EIA must be complete before this point and inform the final decision.	14 th September 2017
Summary of the proposed decision: <ul style="list-style-type: none"> • Aims and objectives • Key actions • Expected outcomes • Who will be affected and how? • How many people will be affected? 	To ask for Member's approval to release S106 contributions for a new pavilion at the SWAN Centre to serve football users and the licence holding club Bromley Green FC. Users from all sections of the community will benefit from the enhancement. Over 300 people per week use the existing facilities but there is a lack of separation between adult, female, junior and disability participants. The improvements will help lift participation.
Information and research: <ul style="list-style-type: none"> • Outline the information and research that has informed the decision. • Include sources and key findings. 	The project has been informed and researched by a steering committee comprised of the Council Officers, Members, Bromley Green FC, Kent FA and the Football Foundation who have determined the existing facilities are not fit for purpose and do not allow for adequate separation of user groups from health and safety and safeguarding perspectives.
Consultation: <ul style="list-style-type: none"> • What specific consultation has occurred on this decision? • What were the results of the consultation? • Did the consultation analysis reveal any difference in views across the protected characteristics? • What conclusions can be drawn from the analysis on how the decision will affect people with different protected characteristics? 	Key officers from Cultural Services have consulted with the site users, national governing body and key funders and will continue to consult with the partners, the portfolio holder and the ward member as the project progresses. The consultation has resulted in the belief that this is the best use of the contributions. The decision will have no impact on people with different protected characteristics.

Assess the relevance of the decision to people with different protected characteristics and assess the impact of the decision on people with different protected characteristics.

When assessing relevance and impact, make it clear who the assessment applies to within the protected characteristic category. For example, a decision may have high relevance for young people but low relevance for older people; it may have a positive impact on women but a neutral impact on men.

Protected characteristic	Relevance to Decision High/Medium/Low/None	Impact of Decision Positive (Major/Minor) Negative (Major/Minor) Neutral
<u>AGE</u> Elderly	MEDIUM	POSITIVE
Middle age	MEDIUM	POSITIVE
Young adult	MEDIUM	POSITIVE
Children	MEDIUM	POSITIVE
<u>DISABILITY</u> Physical	MEDIUM	POSITIVE
Mental	MEDIUM	POSITIVE
Sensory	LOW	NEUTRAL
<u>GENDER RE-ASSIGNMENT</u>	NONE	NEUTRAL
<u>MARRIAGE/CIVIL PARTNERSHIP</u>	NONE	NEUTRAL
<u>PREGNANCY/MATERNITY</u>	NONE	NEUTRAL
<u>RACE</u>	NONE	NEUTRAL
<u>RELIGION OR BELIEF</u>	NONE	NEUTRAL
<u>SEX</u> Men	NONE	NEUTRAL
Women	NONE	NEUTRAL
<u>SEXUAL ORIENTATION</u>	NONE	NEUTRAL

Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	N/A
---	-----

Is the decision relevant to the aims of the equality duty?

Guidance on the aims can be found in the EHRC’s [Essential Guide](#), alongside fuller [PSED Technical Guidance](#).

Aim	Yes / No / N/A
1) Eliminate discrimination, harassment and victimisation	YES
2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it	YES
3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it	YES

<p>Conclusion:</p> <ul style="list-style-type: none"> Consider how due regard has been had to the equality duty, from start to finish. There should be no unlawful discrimination arising from the decision (see guidance above). Advise on whether the proposal meets the aims of the equality duty or whether adjustments have been made or need to be made or whether any residual impacts are justified. How will monitoring of the policy, procedure or decision and its implementation be undertaken and reported? 	<p>Due regard has been made to the equality duty, from start to finish of the consultation and scoping process.</p> <p>There will be no unlawful discrimination arising from the decision</p> <p>The proposal meets the aims of the equality duty as all sections of the community including those with protected characteristics will benefit from the enhancements to the centre.</p> <p>Monitoring of the policy, procedure or decision and its implementation be undertaken and reported will be undertaken by the partners.</p> <p><i>The council’s revised policy register will assist services to meet this</i></p>
<p>EIA completion date:</p>	<p>17-8-17</p>

