

Agenda Item No: 10
Report To: Cabinet
Date of Meeting: 10th January 2019



Report Title: Ashford and District Rifle Club: Request to Extend and Upgrade Facilities adding an Outdoor Olympic Small Bore (and Archery) Range

Report Author & Job Title: Ben Moyle, Facilities Development Manager

Portfolio Holder Cllr Mike Bennett, Holder for Culture, Leisure,
Portfolio Holder for: Environment & Heritage.

Summary: A Cabinet Report of 6/12/12 gave approval (minute 241) for the lease of additional land (350 square metres) to the Ashford and District Rifle Club to enable the construction of an Olympic length outdoor small bore rifle range. Planning permission has subsequently been achieved and the club have grant offers from Sport England, Kent County Council and the Council. The Club wishes to proceed at the earliest opportunity. As the land to be leased to the Rifle Club is held by the Council as open space, notices were placed in the local newspaper as detailed in this report. This has resulted in one objection being received. This short report asks Cabinet to consider the objection received and to confirm that it still wishes to proceed with the transaction.

Key Decision: YES

Significantly Affected Wards: Great Chart with Singleton and surrounding wards

Recommendations: The Cabinet is asked to:-

- I. Consider the objection received and confirm that the approval given on 6/12/12 should be actioned;
- II. Authorise the Head of Culture and the Director of Law and Governance in consultation with the Portfolio Holder for Culture, Leisure, Environment & Heritage to take any further actions required to give effect to these recommendations;
- III.

Policy Overview: Relevant to the 5 year Business Plan because this project will make positive contribution to improving sports and recreation facilities in the area and improve participation in

an Olympic sport.

**Financial
Implications:**

Legal Implications

**Equalities Impact
Assessment** See Attached

**Other Material
Implications:** No

**Exempt from
Publication:** No

**Background
Papers:** See Appendix

Contact: ben.moyle@ashford.gov.uk – Tel: (01233) 330475

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Introduction and Background

1. This report is to ask for Member's approval to proceed with the proposal in light of the objection received

Proposal/Current Position

2. The 2012 report approved the lease of a small (350 square metres) additional area of land to the Rifle Club to construct an outdoor range to be attached to the existing Rifle Club and the granting of a 50 year lease.
3. The small piece of land is at the rear of the Ashford and District Rifle Club and is currently overgrown scrubland.
4. Planning permission for the proposed outdoor small bore and archery rifle range has already been obtained by the Rifle Club.
5. Significant grant funding from Sport England, KCC and ABC has been approved, which, together with club funds, will fund the construction of the new facility.
6. In accordance with sections 123 (1) and 123 (2)(A) of the Local Government Act 1972, an advertisement was placed in the local Kentish Express newspaper relating to the proposed disposal of the additional land being 350 square metres at Chart Road, Great Chart by way of lease as the land consists of open space. One objection from a local resident has been received.
7. A second advertisement was also placed in the paper at the same time relating to the Council's intention to de-declare the same piece of land under the National Parks and Access to the Countryside Act 1949 which is part of the Council's Local Nature Reserve Declaration No 1 of 2002 (Ashford Urban Green Corridor). No objections have been received in relation to this advertisement.
8. The Local Government Act 1972 requires the Council to consider any objections received to an advertisement for the disposal of open space land. The objection received is annexed in two letters to the Head of Legal and Democracy (Appendix 1).
9. The plans referred to in the first letter in the Appendix were available at the time at the Civic Centre and another set were sent to the objector. The case referred to in the second letter in the Appendix relates to land which was also subject to the Greater London Parks and Open Spaces Order 1967 and the

facts of the case have distinguishing features from the proposed transaction. The case focused on the issues arising due to the application of the Order and gave consideration to whether the use of land as a nursery was contrary to the Open Spaces Act 1906.

10. It is recognised that this area of land is subject to the Open Spaces Act 1906 and the Order referred to in the case does not apply. The Ashford and District Rifle Club is a registered charity and has an open access policy providing and encouraging new members. The use of the land as an extension to the rifle club continues to meet the definition of open space as used for recreation purposes as defined in the Act.

Implications and Risk Assessment

11. The risk of legal challenge is considered low as the Council has followed statutory procedures.

Equalities Impact Assessment

12. See previous report.

Other Options Considered

13. The option to accept the objector's argument and stop the scheme has been considered.

Consultation Planned or Undertaken

14. Consultation with Portfolio holder, Ward Member and local residents took place prior to the Cabinet report. Substantial resident consultation took place ahead of the planning application and the aforementioned notices were placed in the local paper recently.

Reasons for Supporting Option Recommended

15. The recommendation is to proceed with the scheme based on the community benefit of enhancing the Club's facilities to Olympic standard, the fact that the small area of land is overgrown scrubland and that there is only one objection to the scheme. The Club's hard work in obtaining multiple grants would also be wasted and put in jeopardy future bids.

Next Steps in Process

16. Cabinet approves the recommendation to proceed.

Conclusion

17. The recommendation is to proceed with the scheme as previously approved.

Portfolio Holder's Views

18. I approve the recommendations in this report.

Cllr Mike Bennett (Culture, Leisure, Environment & Heritage)

Contact and Email

19. Ben Moyle x475

20. ben.moyle@ashford.gov.uk

29 NOV 2018

V Williams
Head of Legal and Democracy
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
Kent.
Tn23 1PL

26.11.18

Dear Sir or Madam

Reference CPF/RA52/4

I refer to the recent notification in the Kentish Express dated 22.11.18 regarding the notice to dispose of land at Chart Road Great Chart. I believe it is intended to lease the land to Ashford and District Gun Club and I would like to object on the following grounds:

- Section 10 of the Open Spaces Act 1906 provides that a local authority that has acquired control over any open space to which the 1906 Act applies shall, subject to certain conditions, hold and administer the open space in trust to allow the enjoyment of it by the public as an open space and for no other purpose.
- Section 123 of the Local Government Act 1972 (the 1972 Act) – this provides that a council may dispose of land held by it in any manner it wishes subject to certain conditions including that it should not be disposed of for less than the best price that can reasonably be obtained in the market and that the council must advertise its intention in a local newspaper.

Taking each point in order, I believe that the proposed disposal is contrary to the statutory trust arising under section 10 of the 1906 Act pursuant to which the common is held on trust for the use and enjoyment of all local inhabitants and it is not a lawful exercise of the council's power under the 1967 Order. I further suggest that the decision to let the premises to a private club to operate a fee-paying gun range would deny members of the public a right of access to the premises and would not provide them with any facilities. Facilities would only be provided for the members enrolled in the club and not for the public generally, I therefore do not consider that the services provided by the gun club can be said to be for the benefit of the public as a whole, rather than just a specific group of people.

On the second point, I attended the Civic Centre today (about midday), as invited in the Section 123 notice but was not provided with a copy of the plan, simply copies of the Notice from the newspaper. I therefore do not believe that the council can discharge its responsibility in this regard, or indeed that it can justifiably state that the best price has been obtained in this matter.

Yours faithfully

10 Dec 2018

5.12.18

V Williams
Head of Legal and Democracy
Ashford Borough Council
Civic Centre
Tannery Lane
Ashford
Kent.
TN23 1PL

Dear Sir or Madam

Reference CPF/RA52/4

Thank you for your letter dated 30.11.18 regarding the land at Great Chart.

I note you state that the Ashford and District Rifle Club is a registered charity and has an open access policy. However I believe the findings in the case of *Muir v Wandsworth Borough Council* [2017] EWHC 1947 (Admin) (28 July 2017) are relevant in this case, setting a precedent in such situations and should therefore be fully considered in light of my objection. The simple fact is that the intended use of the land is a significant departure from its current one and will restrict non-members from using it, particularly as membership fees are payable to the club.

Yours faithfully

