

Report To: Cabinet

Date of Meeting: 5th June 2023

Report Title: Response to Council motion re: Hastings United Football Club

Report By: Jane Hartnell, Chief Executive

Key Decision: No

Classification: Open

Purpose of Report

This report is in response to the motion that was passed at Full Council on 15 December 2022 (Appendix A), instructing the Managing Director (or nominee) to “prepare a Cabinet report setting out the current situation with Hastings United Football Club and reporting whether or not the scheme is viable to recommend to Council and to set out what alternative provision is available to allow HUFC to remain in Hastings.”

Recommendation(s)

- 1. That Cabinet note the history of the proposed scheme as set out in the report, the latest position and that for the reasons set out, agree that the scheme as proposed in November 2018, was and is not viable to be recommended to council.**
- 2. That Cabinet note that no alternative provision for the football club infrastructure has been identified to date.**
- 3. That HUFC be offered continued support to improve the condition of the playing pitch(s) and the stand and ensuring that they meet their maintenance and repair obligations under the existing lease.**

Reasons for Recommendations

- 1. A report setting out the current situation with Hastings United Football Club and reporting whether or not the scheme is viable to recommend to Council and to set out what alternative provision is available to allow HUFC to remain in Hastings was requested by a motion passed at Full Council on 15 December 2022**

Introduction

1. In 2017, a proposed scheme to develop a new stadium and sports facilities at Bulverhythe Recreation Ground (funded by the development of housing) failed to progress once the developers withdrew.
2. An alternative proposal was then discussed which has been the subject of negotiation between the council and Hastings United Football Club (HUFC) since 2018, culminating in this report.
3. As part of the initial discussions, the council set out a number of conditions (Appendix D) that the club needed to satisfy before a report could be brought back to Cabinet/Council to recommend the sale of HBC land to facilitate the scheme.
4. Progress was made in some areas but there are still key elements which have not been met to the satisfaction of the council.
5. The scheme proposed is based on HUFC acquiring the freehold of the Pilot Field site from the council at nominal value so that sufficient funding on its sale for residential use could be used to develop out the new football stadium and sporting facilities at Tilekiln.
6. The council has not been satisfied that even with the sale of the freehold of the Pilot Field there would be sufficient value generated through its development to meet the full cost of the proposals for the Tilekiln site. There remains concern that there would be a funding deficit estimated to be in the region of £2m.
7. In addition to the lack of a viable business plan, and no agreement having been reached on a profit-sharing mechanism, there has been little or no satisfactory consultation with local residents in the areas affected, and insufficient recognition of the true meaning of the provision of community facilities.
8. Furthermore, there has been no response to the draft heads of terms proposed by the council in 2021 and therefore no indication that the £8m bond required to protect taxpayers' interests could be secured.
9. There is therefore no viable scheme or draft agreement to discuss, develop further, or present to Cabinet/Council for approval.
10. The council remains committed to supporting HUFC to secure improvements to the facilities and grounds at Pilot Field and to ensuring that they meet the repair and maintenance terms of the lease of the site to them.

History

11. **2017** – The original proposal for development of a new stadium at Bulverhythe failed to progress when the developer withdrew from the project. (Appendix B).
12. Following this, Hastings United Football Club (HUFC) and Horntye Trust, who were both involved in the negotiations for the original proposal, decided to progress their plans independently, with Horntye Trust no longer featured as part of the HUFC proposals
13. **2018** - A revised scheme was subsequently brought forward by HUFC which proposed:

- a. The council disposing of the freehold of Pilot Field and adjacent Social Club sites to HUFC.
 - b. HUFC to develop Tilekiln with a stadium and additional sports facilities and pitches.
 - c. HUFC relocating to new facilities at Tilekiln, freeing up Pilot Field to be developed for housing.
14. In this revised scheme, the sale of the Pilot Field site for housing would fund the development of the sporting and football club activities. This scheme is thus wholly dependent upon the transfer of land assets between the Council and the HUFC. (Appendix C).
 15. **5th November 2018** – Cabinet agreed in principle to seek suitable terms to recommend disposal of the Pilot Field site to Full Council, conditional the ('red lines') outlined in Appendix D).
 16. **2018 – June 2020** – Discussions continued in relation to various aspects of the scheme, but with little concrete progress being made on the key conditions. (Appendix D and Appendix E).
 17. **June 2020** – HUFC delivered a presentation to the Council's Leadership which sought to further clarify aspects of their proposals and seek Councillor feedback and commitment on their latest proposals.
 18. **Following this presentation** – the council reconfirmed the importance it attached to ensuring that any risks associated with the proposed scheme are fully mitigated and highlighted the following key points:
 - Up to date valuations were required to inform discussions regarding any disposal, particularly if consideration was to be given to any disposal at less than best value consideration
 - Support was to be dependent upon the council being satisfied that the new stadium and associated facilities would not only be delivered successfully but also remain viable in the longer term
 - The current level of bond/deposit would need to be reviewed in light of any Heads of Terms agreed and any Homes England grant funding agreement and associated conditions
 - The terms for any disposal of Pilot Field and lease of Tilekiln would need to be approved by Cabinet and recommended to Full Council
 - The council had limited financial capacity to support projects that do not form part of its existing capital programme
 19. The following work was then commissioned:
 - Valuations for Pilot Field (Freehold) and Tilekiln (Leasehold) by Savills
 - Independent review of the new stadium's business case by Continuum Sports and Leisure
 - A scheme viability assessment for the Tilekiln development (build side) by Continuum Sports and Leisure
 - Initial external legal advice to progress drafting Heads of Terms by Trowers and Hamblins
 - A business credit report on HUFC and Bohemia Hastings LLP

20. HUFC agreed to pay for the above work which would inform a future report to Cabinet setting out the final terms of the scheme.
21. **October 2020** – Continuum were commissioned to produce a report reviewing the HUFC business plan, the football development plan and costs of the scheme.
22. **September 2020** – Planning applications registered: HS/FA/20/00669 and HS/OA/20/00673
23. **January 2021** – this report was produced. In the summary and recommendations section of the report it was stated that it was evident that there were frustrations from partners such as the council and the County FA that the club had still not grasped the true meaning of community football development. Discussions continued between HUFC and Continuum around how to address this. (Appendix F).
24. **July 2021** – draft Heads of Terms were drawn up by the council's lawyers to facilitate HUFC obtaining funding to support their scheme and secure £8million bond to protect taxpayers' interests. However, they were never agreed or signed.
25. **July 2021 – March 2022** – very little further formal contact and discussion took place between HUFC and the council regarding the draft Heads of Terms or the specific terms of a sale of the lands in question to the Football Club.
26. **March 2022** - With no real substantive and key milestones having been achieved in relation to the deliverability of the HUFC Pilot Field and Tilekiln scheme and following discussions with officers, a public announcement was made by the Deputy Leader of the Council and Portfolio Lead for Regeneration stating the council would no longer be proceeding with the sale of the Tilekiln land to HUFC for a new football stadium. (E-mail to club owners 29th March 2022, Appendix I)
27. **June 1st 2022** – the Planning Committee resolved to grant both of HUFC's planning applications (outline permission for Pilot Field) conditional on addressing the reserved matters that would need to come back to committee including drainage etc.) (HS/FA/20/00669 and HS/OA/20/00673) (Appendix G)
28. **November 2022** - further discussions took place between Councillors and representatives of HUFC about the possibility of utilising alternative land at Horntyte for the Football Club and sport redevelopment, including assistance in bidding for possible access to public subsidy, but the proposals were not progressed.
29. **15th December 2022** – motion passed by Full Council as in Appendix A

Current Position

30. The draft Heads of Terms issued by the council have never been finalised and signed.
31. Notwithstanding the key outstanding issues still to be agreed, HUFC proceeded to submit and progress its planning applications. These were done independently of the council and entirely at the risk of HUFC. It is understood that the key reason and objective has been the need to be able to demonstrate deliverability to any potential development partners and funders.

Conclusions and next steps

32. It must be emphasised that HUFC is a privately owned football club whereas the council is a public body and as a local authority, fully accountable and under a statutory duty to protect the interests of its residents and the community as a whole while, minimising financial risk
33. There has been no further substantive progress in meeting most of the Cabinet conditions set out in Appendix D. The council has remained open to exploring alternative provisions to allow Hastings United to remain in Hastings, but unfortunately no further progress has been made.
34. The council nevertheless is progressing and developing its Playing Pitch Strategy as part of the Local Plan work to support community football and sports facilities in the borough. Work is ongoing alongside discussions with local sports clubs and national governing bodies.
35. The council remains open and willing to assist the club to invest in the current location or seek alternative provision to allow HUFC to remain and continue to prosper in Hastings.

Recommendations

1. That Cabinet note the history of the proposed scheme as set out in the report, the latest position and that for the reasons set out, agree that the scheme as proposed in November 2018 was and is not viable to be recommended to council.
2. That Cabinet note that no alternative provision for the football club infrastructure has been identified to date.
3. That HUFC be offered continued support to improve the condition of the playing pitch(s) and the stand and to meet their maintenance and repair obligations under the existing lease.

Wards Affected

Hollington, and Baird, and St Helens

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Y
Crime and Fear of Crime (Section 17)	Y/N
Risk Management	Y/N
Environmental Issues & Climate Change	Y
Economic/Financial Implications	Y
Human Rights Act	Y/N
Organisational Consequences	Y
Local People's Views	Y
Anti-Poverty	Y/N
Legal	Y

Additional Information

Report Template v30.0



See appendices attached

Officer to Contact

Jane Hartnell

Chiefexecutive@hastings.gov.uk

Appendix A

The following motion was agreed by Full Council on 15th December 2022:

The idea to allow Hastings United Football Club to build 86 dwellings on Pilot Field, while in turn building a new stadium and sports facility on Tilekiln Playing Fields in Hollington, was tested by the Planning Committee and has been granted full planning approval for Tilekiln (with conditions), and outline permission for Pilot Field, with design, drainage and other details still to be determined.

Over 1750 signatures have now been collected asking for the decision to be discussed at Cabinet in order for Hastings Borough Council to consider whether or not the Council should sell land to Hastings United Football Club and enter into any agreements with the developer to proceed, and in the spirit of openness and transparency, the Council agrees to:

- instruct the managing director (or nominee) to prepare a report to Cabinet at the earliest opportunity with a view to setting out the current situation with Hastings United Football Club, and reporting on whether or not the scheme to enable the proposed development at Pilot Field and Tilekiln Playing Fields is viable to recommend to Council;*
- and set out what alternative provision is available to allow Hastings United to remain in Hastings.*

Appendix B

Details of negotiations for the original 2017 proposal at Bulverhythe

- The council was first formally approached by Keepmoat Homes in 2017 with a proposal which included the development of a new stadium at Bulverhythe alongside three residential developments. The key parties involved were also HUFC and Hornty Trust.
- In December 2017, the Cabinet agreed that authority be given to officers in consultation with the Leader of the Council to sell the freehold of Hastings United Football Ground, Hastings United Sports and Social Club, a 999-year lease at Bulverhythe and the freehold of the lower tier at Bexhill Road Recreation Ground
- The council was awarded funding by the Homes & Communities Agency (Homes England's predecessor) to bring forward the scheme with Keepmoat.
- This scheme did not progress as Keepmoat Homes withdrew from the project.

Appendix C

Details of the lease at Pilot Field

- HBC owns the freeholds of both Pilot Field and Tilekiln sites.
- HUFC have a long leasehold interest on the Pilot Field site which has some 40 plus years remaining.
- Consequently, its redevelopment value at the time was considered as a 'marriage value' between HUFC and the council dependent upon both combining and agreeing to sell their respective interests.
- Neither party can independently redevelop the Pilot Field site, at least in the short to medium term, without the agreement of the other.

Appendix D

Conditions agreed at Cabinet 5th November 2018 (taken from the minutes)

- a) Agreement of land values
- b) The safeguarding of the council's position by the use of an options agreement, bond or other mechanism to ensure the delivery of agreed sports facilities
- c) Agreement of open book policy and the use of any funds generated by house development over the costs of developing and delivering the new sports facilities
- d) Safeguarding to ensure the delivery of sports facilities
- e) Agreement of a programme of community development and access to the new facilities which details plans for the development of activity for young people of education age, female football and disability football
- f) Support of the Football Association and Sport England
- g) Informal use of the football facilities, as well as organised competition and activity
- h) Consideration of comments made from consultation with sporting bodies, local football clubs, councillors for Hollington Ward and the local community
- i) That a further report recommending the details of such a disposal be brought to Cabinet and Council as quickly as possible.

Appendix E

Progression of the Cabinet report conditions ('red lines')

1. Agreement of land values

- 1.1. A key concern raised by the council on the submission of an early draft business plan by HUFC was the scheme's viability.
- 1.2. Development of the scheme is based on HUFC acquiring the freehold of Pilot Field from the council at nominal value so that they can generate sufficient funding on its sale for residential use to develop out the new football stadium and sporting facilities at Tilekiln. Securing the freehold would enable them to borrow funds to build the football facilities ahead of any actual sale of the land.
- 1.3. However, the council has not been satisfied to date that even with the sale of the freehold of the Pilot Field there would be sufficient value generated through its development to meet the full cost of the proposals for the Tilekiln site. In short, there was concern that there would be a funding deficit estimated then to be in the region of £2m.
- 1.4. Whilst it is understood that discussions have taken place with several potential house builders, including a major Registered Housing Provider, the council is not aware that any firm agreements are in place or that the necessary progress has yet been made to close the funding gap. A prerequisite of securing such a development partner for the Pilot Field site would likely be a degree of certainty on the sale of the land, confidence in obtaining a valid planning permission for residential development on the land, and in the case of a registered provider, necessary grant funding from Homes England.

2. The safeguarding of the council's position by the use of an options agreement, bond, or other mechanism to ensure the delivery of agreed sports facilities

- 1.1. In order to provide the council with a degree of confidence in their ability to deliver all aspects of their proposal, a bond mechanism has been required to be in place between HBC and HUFC but this has never been progressed.
- 1.2. Early engagement with Homes England did take place regarding access to grants or loans to assist with potential viability issues. Whilst Homes England's initial advice was that they would not rule out such an approach at an appropriate point in the future, no specific funding has been sought or identified to date, other than that allocated through the original bid for the Keepmoat proposal which was subsequently withdrawn.

2. Agreement of open book policy and the use of any funds generated by house development over the costs of developing and delivering the new sports facilities

- 2.1. A key consideration expressed at the outset by the council was the desire to facilitate a sport (and housing development) that would benefit the community in Hastings whilst ensuring that the council obtained best value for the disposal of any of its land assets. The council sought assurances that any public subsidy was transparent, and that public money would not be used to subsidise private interests, including the football club.
- 2.2. To this end, the council sought an agreement on an open book policy with HUFC to ensure that the use of any funds generated by house development over the costs of developing and delivering the new sports facilities were captured and used appropriately. The submission of a draft business plan was the first step in assessing scheme viability and profitability. As previously stated, the draft business plan considered by officers has suggested a project deficit rather than a significant profit margin.
- 2.3. Further evaluation of the business plan proposals identified broader financial risks to the council than just the loss of the Pilot Field alone. Officers concluded that the bond/deposit required needed to be sufficient to ensure the Tilekiln scheme is completed and any step-in risks to the council were mitigated.

3. Delivery of Sports Facilities, public access to facilities and programme of community development and the views of other sporting bodies and local representatives

- 3.1. Apart from financial considerations, the main conditions set by the council related to the delivery of sports and community benefits. Lengthy discussions took place in the development of the early proposal again without matters reaching firm conclusions and any agreement prior to March 2021.
- 3.2. Towards the end of March 2021, in support of their planning application, the club's agent submitted a statement providing further clarity on the resources which would benefit the community. It stated that HUFC were committed to providing a community coordinator who would liaise with the community and directly encourage the use of the facility to disabled, BAME, and disadvantaged communities. Their role would be to determine with the local community how the facilities would be accessed and to determine hire fees relevant to the users. The intention being to enable disabled, BAME, and disadvantaged communities to use the facility at reduced costs.
- 3.3. Sport England commenting on the planning application stated that in light of the new additional supporting information submitted by the applicant, their view was that the first phase of the development would provide a new outdoor facility for sport that was of sufficient benefit to the development of community sport to outweigh the detriment to sport caused by the loss of the playing field.
- 3.4. Officers are unclear to the extent that other local stakeholders were consulted directly on the club's plans, including local councillors from Hollington ward or other community or local sports club representatives. Council officers have not directly consulted with the community on the proposals, other than as part of the planning process.

Appendix F

Response to Continuum Report

1. In the summary and recommendations section of the report it was stated that it was evident that there were frustrations from partners such as the council and the County FA that the club had still not grasped the true meaning of community football development. The report stated that there was not a sufficiently detailed football development plan and clarity was required regarding the final facility mix.
2. Continuum recommended that the club submit further information stating that if the club could address these shortfalls and provide further clarity on the viability and funding situation then this was potentially a project that in-principle the council could support.
3. Following discussions between HUFC and Continuum the club subsequently submitted additional information aimed at better reflecting the club's approach to supporting the local community. This included a detailed football development plan (utilising templates from the FA) and usage timetable.
4. In February 2021 Continuum confirmed by email to HUFC that if the club could address the wider social and community aspects of the project and the planning policy issues raised by Sport England, then in their view they believed that it would be worth further consideration by the council.

Appendix G

Planning applications

1. HUFC submitted two planning applications to the council on 21 September 2020, one for the new stadium at Tilekiln and one for outline planning permission for the housing at Pilot Field. These were done independently of the council and entirely at the risk of HUFC. It is understood that the key reason and objective has been the need to be able to demonstrate deliverability to any potential development partners and funders.
2. Both of the HUFC planning applications were considered at Planning Committee on 1st June 2022. Both required a Section 106 (S106) legal agreement, and both were recommended to grant planning permission once a S106 legal agreement had been secured for both applications. The Pilot Field permission was for outline permission, with 38 reserved matters that would have to come back to committee for approval.
3. The Planning Committee resolved to grant both applications. The minutes of the meeting and detail of the decision is available from this link <https://hastings.moderngov.co.uk/documents/g4846/Printed%20minutes%2001st-Jun-2022%2018.00%20Planning.pdf?T=1>
4. Both applications had an initial deadline of 31st September 2022 within which to finalise the S106 agreement. An extension to this deadline was later agreed until

11th January 2023 and a further extension to this deadline was agreed to 28th February 2023. To date the S106 legal agreements have not been completed. If no such agreements are forthcoming, the applications will be taken back to Planning Committee with a recommendation of refusal.

Appendix H

Impact of COVID-19 pandemic

1. The council Leadership determined that post-pandemic, recognising the value of open spaces to health and wellbeing, that no further wholly council-owned playing fields or green space should be sold for housing development, and all efforts need to be directed to increasing housing supply by means of increasing density and building on brownfield sites.
2. With no substantive clarity around the funding and other milestones having been achieved in relation to the deliverability of the proposed HUFC Pilot Field and Tilekiln scheme, the political administration determined that the sale of land at Pilot Field and Tilekiln would no longer progress.
3. The council remains committed to supporting the club and HUFC to secure improvements to the facilities and grounds at Pilot Field, but not at the expense of losing green open space.

Appendix I

From: Jane Hartnell
Sent: 29 March 2022 15:16
To: [REDACTED] HUFC
Subject: RE: Tilekiln/Pilot Field

Dear [REDACTED]

The Cabinet decision on 5th November 2018 was to:

1. *To authorise the Director of Operational Services (or his nominee) to work with the Assistant Director Financial Services & Revenues, Estates Manager and Chief Legal Officer to seek suitable terms for the disposal of the land listed in this report in consultation with the Leader of the Council.*
2. *That any disposal be subject to:*
 - *Agreement on land values.*
 - *The safeguarding of the council's position by the use of an options agreement, bond or other mechanism to ensure the delivery of agreed sports facilities.*
 - *The agreement of an open book policy and the use of any funds generated by house development over the costs of developing and delivering the new sports facilities.*
 - *Agreement of a programme of community development and access to the new facilities which details plans for the development of activity for young people of education age, female football and disability football.*
 - *Support of the Football Association and Sport England.*
 - *Informal use of the football facilities as well as organised competition and activity.*

- *Consideration of comments made from consultation with sporting bodies, local football clubs, councillors for Hollington Ward and the local community.*
3. *That a further report recommending the details of such a disposal be brought to Cabinet and Council as quickly as possible*

You will also recall that the council, at your request produced the non-legally binding Heads of Terms, to assist you with obtaining funding for the scheme, in particular, the £8 million surety bond. I understand that we have not heard from you in this regard recently. The submission of a planning application was at your own risk and cost, as per the non-legally binding Heads of Terms.

I understand that Cllr Barnett contacted [REDACTED] to give him the heads up that the council's administration's view on this matter had changed, as per the details in the press release.

Whilst the council is not required to submit a further report to Cabinet because there is no current proposal for disposal which has met the criteria set out above nor the surety bond, a report will be submitted to Cabinet in the new municipal year (i.e. post-election) setting out the council's formal position on the scheme, and any bid proposals that we are able to co-create for submission to the Levelling Up Fund to support improvements at the Pilot Field.

I attach the Levelling Up 2 Fund prospectus below for your information – and would welcome a discussion on this. I suggest that tomorrow's planned meeting with Cllr Barnett is delayed until you have had time to review the prospectus and confirm whether you would wish to work together on this.

<https://www.gov.uk/government/publications/levelling-up-fund-round-2-prospectus/levelling-up-fund-round-2-prospectus>

Best wishes
Jane Hartnell
