

**Decision Maker:** ENVIRONMENT PORTFOLIO HOLDER.

**Date:** For Pre-Decision Scrutiny by the Environment and Community Services Policy Development and Scrutiny Committee on Tuesday 23<sup>rd</sup> January 2024.

**Decision Type:** Non-Urgent                      Non-Executive                      Non-Key

**Title:** PARKS BUILDINGS LEASE PROCESS AND GRANT PAYMENTS

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**Chief Officer:** Director of Environment and Public Protection

**Ward:** All Wards

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1. Reason for decision/report and options

- 1.1 Following the conclusion of the Operational Property Review, officers have reviewed the current arrangements in place for the occupation of park pavilions and buildings in the context of the Council's stated strategic objectives as set out in the Operational Estate Strategy, Open Space Strategy and Regeneration Strategy.
  - 1.2 This report recommends that a new approach to leasing parks pavilions and buildings is adopted in line with the authorities already delegated to officers within the constitution and adopted strategy.
  - 1.3 This report also recommends that as part of this process, grants paid to organisations which are connected to the use of buildings and/or pitches in parks and open spaces are reviewed with any grants standardised under a new agreement.
  - 1.4 Finally, this report recommends that the grant paid to the Chislehurst Conservators is renewed for a further 5 years to 2029.
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## **2. RECOMMENDATION(S)**

- 2.1. The Environment and Community Services Policy Development & Scrutiny Committee is asked to scrutinise the recommendations in this report and provide their comments to the Portfolio Holder for Environment.**
- 2.2. The Portfolio Holder for Environment is asked to approve:**
  - 2.2.1 the revised approach to leasing park pavilions and buildings as set out in this report, and specifically those processes set out for vacant pavilions in paragraphs 3.17 – 3.24 and lease renewals in paragraphs 3.25 – 3.26.**
  - 2.2.2 the review and standardisation of the grant agreements provided for leisure activities in parks and open spaces as set out in paragraph 3.27 – 3.28.**
  - 2.2.3 to delegate authority to the Director of Environment & Public Protection in consultation with the Portfolio Holder for Environment to agree and enter into revised grant agreements as appropriate.**
  - 2.2.4 to delegate authority to the Assistant Director for Legal Services to execute all relevant legal documentation ancillary thereto.**
  - 2.2.5 the renewal of the grant to the Chislehurst Conservators for a term of 5 years, as further set out in paragraphs 3.29-3.33.**

### Impact on Vulnerable Adults and Children

1. Summary of Impact: The *Open Space Strategy 2021-2031* incorporated several features to ensure that those who were not traditional users of Open Space were represented to ensure social cohesion and equality of opportunity, which will be applied in officers' consideration of Best Value as part of the lease process for pavilions in parks and open spaces.
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### Transformation Policy

1. Policy Status: Existing Policy.
2. Making Bromley Even Better Priority (*delete as appropriate*):

(5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.

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### Financial

1. Cost of proposal: Not Applicable
  2. Ongoing costs: TBD
  3. Budget head/performance centre: Parks and Greenspace
  4. Total current budget for this head: £7.1m
  5. Source of funding: Revenue budgets
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### Personnel

1. Number of staff (*current and additional*): N/A
  2. If from existing staff resources, number of staff hours: N/A
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### Legal

1. Legal Requirement: Statutory Requirement: Local Government Act 1972, Open Spaces Act 1906, Greater London Parks and Open Spaces Order 1967, Localism Act 2011, Subsidy Control Act 2022.
  2. Call-in: Not Applicable
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### Procurement

1. Summary of Procurement Implications: The Public Contracts Regulations 2015 may apply to the award of grant agreements, and therefore professional advice must be sought prior to entering into an agreement using the delegated authorities recommended in this report.
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### Property

1. Summary of Property Implications: The processes for leasing parks pavilions and buildings set out in this report have been developed by the Council's Estates team, Legal Services team and Parks team and comply with adopted strategy and the existing scheme of delegation.
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### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Officers assessment of Best Value will incorporate an assessment of the sustainable practices of prospective tenants. The application process will also require tenants to illustrate engagement with site stakeholders and ensure that equal opportunities are promoted in their activities.
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### Impact on the Local Economy

1. Summary of Local Economy Implications: The evaluation of proposals will seek the provision of a diverse range of facilities that align with the needs of local economies and communities, as a strategic objective of the Open Space Strategy.
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### Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: There should be a diverse range of proposals which impact on health and wellbeing, including those that look to diversify sporting facilities and those that enhance opportunities for social interaction.
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### Customer Impact

1. Estimated number of users or customers (*current and projected*): The Open Space building stock covers a range of sites in the Portfolio including both parks, recreation grounds and countryside sites. Accordingly, this process in conjunction with the *Open Space Strategy 2021-2031* will impact upon all users of the borough's Open Spaces.
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A
2. Summary of Ward Councillors comments: N/A

### 3. COMMENTARY

- 3.0. In its *Open Space Strategy 2021 – 2031*, the Council recognises the significant contribution that its open spaces make to the lives of both its residents and its visitors.
- 3.1. Key to this is the commitment of local stakeholder groups that operate within the spaces, including Friends of Parks groups and other cultural, sport and leisure providers such as bowls clubs, sports clubs, delegated sports managers and event and activity providers – many of which operate out of built assets such as pavilions and making use of sport pitches.
- 3.2. There are over 100 sports pitches in the Council's parks and open spaces, which make provision for a variety of sports including football, rugby, cricket, and bowls. There are also 46 pavilions and parks buildings, of which 40 are currently occupied for a variety of uses, predominantly as changing rooms or other uses associated with the operations of sports clubs, but with some also used by nurseries or cafes.
- 3.3. Whilst the contribution that these groups make is much valued by communities, it is apparent that the lease model under which they operate does not meet the current day requirements of the Council. This is because:
- There is an inconsistency of agreement types in place governing the use of different properties including leases, delegated sports management agreements, tenancies at will, licences, and permissions, some of which are open-ended.
  - The Council (to varying degrees) subsidises the operations of many of these groups, including through the retention of significant maintenance and service liabilities, payment of utilities, and/or the payment of grants.
  - In some instances, these agreements do not meet the Council's strategic objectives for both its open space and its Strategic Property Portfolio as set out in the *Open Space Strategy* and the *Operational Estate Strategy*.
- 3.4. There are six vacant park buildings. In addition to its *Open Space Strategy* commitments, the Council also makes commitments to nurture our green spaces in the *Regeneration Strategy 2020 – 2030* through 'bringing disused park buildings back to life to provide opportunities for growth in the local economy, combat anti-social behaviour, and enhance local amenity.'
- 3.5. This paper:
- Sets out the policy background that has necessitated a new approach to the management of parks buildings.
  - Sets out a process for the leasing of park pavilions and buildings: one for vacant properties (new lettings) and one for lease renewals.
  - Recommends that the Council reviews and standardises the terms for grants paid to support leisure and sporting activities in parks and open spaces.

#### Background

- 3.6. In December 2022 Full Council adopted the recommendations of the Council's *Operational Property Review* (Committee Report **CSD22139**) which aimed to seek ways to reduce the liability across the Council's Operational Property Estate down to a financially sustainable level. It identified:

- That the maintenance liability across the estate over the next 10 years amounts to £82.1M and that a further £82.3M would be required to refurbish the Portfolio to a minimum standard.
  - There are mandatory risks to the Council associated with the condition of the operational estate, including pressure on repair and maintenance budgets to manage an increasing and urgent reactive maintenance.
  - That the Council is likely to need to spend more on its operational estate within the next ten years than can be generated by capital receipts from within it.
  - That it will cost an estimated £17.8m to refurbish all buildings across the Open Space Portfolio to a reasonable standard.
- 3.7. Whilst there have been some notable successes in the modernisation of building provision in the Open Space Portfolio, a significant proportion of it is of 1930s construction, in poor condition and is increasingly challenging in terms of maintenance liabilities. Many do not conform with modern building standards (e.g. for sports with regards to changing rooms and disability access) and there is currently no available Council funding within the capital programme or within the maintenance budgets set aside for refurbishment or improvement.
- 3.8. Recognising that whilst these buildings are not required for the delivery of statutory Council services, they are used for the delivery of strategic partnerships (including the provision of sport and other open space amenities). Strategic Objective 4 of the *Operational Estate Strategy* therefore notes that officers will seek to negotiate lease arrangements that divests the Council of its ongoing maintenance liabilities wherever possible. Disposal is not recommended for these buildings due to their location.
- 3.9. Section 16.3 of Appendix 10 of the Council's Constitution delegates authority to the Director of Housing, Planning and Regeneration to carry out functions relating to the leasing and management of property including:
- The grant for leases and renewal of such for properties for which they were originally acquired or are currently held or has presented an opportunity to generate additional income or provision of service, provided such leases are:
    - i. For a term not exceeding 7 years; or
    - ii. Where the annual rent is within the financial limits, currently less than £250k per annum).
  - Consenting to the assignment of leases and subletting of Council properties.
  - Approving applications to minor alterations or improvements to buildings.
  - The determining of rent reviews, lease renewals, lease re-gearings (e.g. variation or surrender and regrant), changes in use and re-letting of commercial properties in Council ownership.
- 3.10. Section 123 of the Local Government Act 1972 requires the Council to secure the best consideration reasonably obtainable where it disposes of land (excluding a lease of 7 years or less). In determining whether the disposal meets the proposals of 'best value' officers must consider multiple factors including (but not limited to) the proposed terms offered under any leasing arrangement, what the intended use (and subsequent income generation) will be of the

built asset, and the level of finance that any prospective tenant will be investing into the built asset as part of their tenancy.

A new process for leasing park pavilions/buildings:

3.11. Upon approval of the *Operational Property Review* and Operational Estate Strategy, and in recognition of strategic background outlined in 3.10-3.11, a 'drafting committee' formed of representatives from the Council's Carbon Management and Greenspace, Estates and Legal Services divisions was established to redraft and standardise the lease documentation for properties within the Open Space Portfolio.

3.12. A suite of standardised Open Space documentation has been produced that can be used including:

- A lease for a parks pavilion/building
- A licence for the use of sports pitches
- A licence to occupy a building or space on a short-term basis.
- A licence for alterations to a park pavilion/building
- A tenancy at will.
- A licence to place a shipping container (or similar) on an Open Space.

3.13. The key points to note in relation to the standard form of lease for a parks pavilion/building are:

- Unless specifically stated, the lease is to be contracted out of the security of tenure and compensation provisions of the Landlord and Tenant Act 1954 Part II as amended, allowing the Council greater flexibility to plan for any future alternative uses of the property, and to reassess best value over time.
- A lease will be granted on a full repairing and insuring basis, thus divesting the Council of its service and maintenance liabilities as outlined in 3.7.
- Any proposed rent will be reflective of the factors outlined in 3.11 and will be uplifted by the Retail Prices Index (or any official index that may replace it) on agreed review dates, thus ensuring the Council meets its statutory duty to secure best value where appropriate.
- The length of the lease will be negotiable depending on the nature of the proposal, but shorter terms are likely to be preferable, with longer terms (not exceeding 25 years) justified only where there is significant investment into the building. Break clauses can be included on longer leases to provide greater flexibility.

3.14. The above standard form of documentation will be the basis upon which terms are negotiated with any prospective tenants, with no significant changes to the standard form of wording being accepted, unless justified by a material requirement within the proposed terms. This will help develop and complement a consistent policy for divesting liability and the management of property assets.

- 3.15. Negotiations with prospective tenants will fall broadly into two distinct categories with slightly differing processes:
- *Vacant Properties (new lettings)*: Prospective tenants that have expressed an interest in the occupation of a building that is currently empty or where a lease has recently been surrendered by a previous tenant.
  - *Properties with Lease Renewals*: Tenants that are requesting a renewal of their current lease arrangement either because it is about to expire or because they wish to renegotiate their current terms (such as for example this may be required to meet a grant funding condition)

### Vacant Properties

3.16. As stated in its Regeneration Strategy, the Council will go to the market with ‘an open mind for a range of commercial and community led uses where pavilions are vacant.’ It is therefore recommended that the Council is not prescriptive about specific uses for vacant pavilions but will evaluate different proposals using suitable criteria which includes ‘community and council objectives.

3.17. Where a property is vacant, it is recommended that the following process will apply:

1. Officers will undertake a review of the vacant assets and devise a marketing timeline which will be shared with stakeholders. At this stage, it will also be decided if there are pitch licences that will be marketed alongside the building. It should be noted that the marketing timeline will depend on the level of available resource to complete a transaction and the priorities within the portfolio at any given time.
2. Once it has been agreed to market a vacant building, the Council’s Facilities Management division will undertake an inspection to identify a minimum requirement by the tenant to meet mandatory safe standards for safe occupation and use. This may include a requirement to ensure that the building complies with MEES (Minimum Energy Efficiency Standards) regulations. If the inspection does identify a capital investment requirement, the Council will assess a prospective tenant’s ability to fund and undertake any required works as part of its ‘best value’ assessment in step 4 of this process.
3. The building will be advertised on the open market, detailing the estimated capital requirement (identified in 2). Prospective tenants must undertake their own due diligence inspections and assessments and be prepared to take the property as ‘seen.’ To apply for the tenancy, prospective tenants will be asked to complete a proposal form and application which must address:
  - That they are suitably qualified and experienced to deliver their objectives for the building asset in question.
  - Their intended use of the building
  - An intended business plan including an offer in respect of rent, any costs incurred with preparing the building asset for their proposed use, a forecast of annual income and expenditure and any risks associated with their proposal.
  - How they will carry out any operational activities on site safely and for the benefit of the wider community, including building good relationships with the site’s existing stakeholders.

4. After the closing date for applications, officers will evaluate all received applications for 'best value' based upon the following criteria:
  - *Rent*: Officers will assess any rental income offered against market value and consider the level of investment being proposed for the property to assess the value for money being provided by the application.
  - *Risk*: The level of risk associated with the proposal (including viability and capability of meeting the capital requirements) and its delivery and how well this is managed by the prospective tenant.
  - *Community and Council Objectives*: Whether the proposal produces a community benefit that will diversify the use of the associated Open Space in line with the Council's wider strategic and policy objectives including the *Open Space Strategy 2021-2031*. Where the Council has named a specific objective for a site within a strategic or policy document, credit will be given to proposals that align with these. Community engagement and support will be beneficial in the evaluation of this criterion.
5. Following the evaluation of best value/consideration, a preferred proposal will be identified. Officers will engage with ward councillors on the outcome of the process, after which prospective tenants will be notified.
6. For the application that is assessed to provide best value/consideration, officers will proceed to confirming lease terms with the respective tenant. Depending on the nature of the proposal, this may involve:
  - Consultation under the Open Space process, if required.
  - Ensuring funds are in place to deliver works to the building.
  - Ensuring that works are undertaken to a suitable and compliant standard.
- 3.18. Where it is intended that the prospective tenant will fundraise to undertake works to the property, the Council may issue an agreement to lease to enable them to access grant funding, with the completion of a lease being conditional upon these funds being secured.
- 3.19. All marketed buildings will be advertised on the letting page on the Council website, and local media such as the *News Shopper* where appropriate. The administration will be managed by idverde on the Council's behalf, who will be able to provide prospective tenants with a 'welcome pack' consisting of guidance for making an application, the market particulars of the building, site plans, an application and business plan template, and template lease documents. They will also be able to arrange viewings of the building for prospective tenants.
- 3.20. Applications are welcome from all sectors of the community including (but not limited to) sports clubs, leisure providers, nurseries, and catering offers, so long as they address all the requirements stipulated within their submission, and in recognition that the prospective tenant will be responsible for securing any planning and statutory consents necessary to deliver their proposal.
- 3.21. If the proposed use does not include use of an associated pitch or licences, these can be marketed separately.

- 3.22. Wider community stakeholders such including Friends of Parks groups and ward councillors will be notified once a building is marketed to let so that they can support with advertising any opportunity and will also be engaged on the preferred proposal once it has been identified.
- 3.23. This process has been piloted at Biggin Hill Recreation Ground (Biggin Hill), and officers are now working through the final stages to confirm the lease terms. The standard form lease has also been successfully used to lease the pavilion at Queensmead Recreation Ground (Shortlands & Park Langley).

### Lease Renewals

- 3.24. Where a property has an existing tenant that requires their existing arrangements to be renewed, the Council's standard Landlord and Tenant process for the renewal of leases will apply:
1. The Council will enter discussions with the existing tenant to understand their aspirations for continued occupation, whilst also reducing its liabilities by moving the tenant onto the new standard form of lease, as outlined in 3.14. It should be noted that the tenant will be required to accept more responsibility for the building than at present. Any associated documents with their current lease (such as a sports pitch licence) will also be transferred to the new format.
  2. Dependent upon the protection afforded by their current lease, it will be at the Council's discretion as to whether any lease arrangement is renewed. Whilst every effort will be made to ensure that lease renewals are successful, the Council at its discretion may choose not to renew a lease arrangement should negotiations prove unsuccessful and/or the tenant appears unable to match the Council's strategic objectives for the Open Space. In all negotiations, the Council must seek to secure best value/consideration, and it is recommended that this is evaluated in accordance with paragraph 3.18(4).
  3. If a lease renewal cannot be agreed, then the current arrangement will cease and the park building will be classified as vacant, with the new process set out in paragraphs 3.17 – 3.23 than applying.
- 3.25. It should be noted that there are several long-standing agreements in place for park buildings which are due to expire in the next 5 years which will be impacted by this new process. A summary is included in a table at Appendix 1.

### Grants

- 3.26. Currently, the Council pays circa £105k per annum in grants to various groups operating in the borough's greenspaces, of which £63k is connected to the use of pavilions, park buildings or pitches in 17 parks and open spaces.
- 3.27. In these circumstances, the grants are often connected into the property agreements themselves, rather than having its own agreement with terms specifically governing the use and payment of the grant. It is recommended that these grants are reviewed at the point at which the property agreement expires, and that if the lease or licence is renewed, the grant is governed by its own, separate grant agreement with a term of no longer than five years and with clear objectives governing the use of the fund. It is recommended that authority is delegated to the Director of Environment & Public Protection, in consultation with the Portfolio Holder, to make decisions about the award of grant funding.

- 3.28. There is however one grant agreement that is not specifically connected to the use of park buildings which officers recommend are standardised under a new set of terms outside of the park building lease process; this is the grant paid to the Trustees of Chislehurst Common.
- 3.29. The Chislehurst & St Paul's Cray Commons Conservators ('Chislehurst Conservators') was established by the Metropolitan Commons (Chislehurst & St Paul's Cray) Supplemental Act 1888 to protect and maintain the Commons for public use. When established the costs of the Conservators were supported by the local parish councils, and subsequently by the relevant local authority.
- 3.30. The Council currently pays an annual grant to the Chislehurst Conservators of £36,310 to support their charitable objectives, which represents approximately one third of their total costs, with the rest paid for through fundraising efforts. The funding provided to the Trustees has steadily reduced since 2002, before which the local authority funded 100% of the operational costs.
- 3.31. If the Council were to stop paying this grant, there is a material risk that the Chislehurst Conservators may not be able to achieve their objects and the statutory duties may need to be fulfilled by the Council in their absence.
- 3.32. This report recommends that this grant funding agreement is renewed at the current rate for a further 5 years to continue to provide financial support between 2024 – 2029, to ensure that the Commons continue to be protected for public enjoyment. The new set of terms and conditions for this grant will ensure that activities are monitored to ensure that the grant is being used for the stated purpose. If during the monitoring of these activities, the Council deems that the conditions of grant are not being met, the Council reserves the right to withdraw the grant.

#### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

- 4.1. The *Open Space Strategy 2021-2031* incorporated several features to ensure that those who were not traditional users of Open Space were represented to ensure social cohesion and equality of opportunity.
- 4.2. Such features will be incorporated into officers consideration of Best Value of applications for vacant pavilions including whether the proposal will have an impact on community physical and mental health (e.g. helping to combat social isolation), help to cater for a wide range of needs (e.g. diversifying the number of activities on site to be inclusive of those with physical disabilities and learning difficulties) or help to tackle loneliness by meeting the objectives of the Council's *Loneliness Strategy 2022 to 2026*.

#### **5. TRANSFORMATION/POLICY IMPLICATIONS**

- 5.1. The Process outlined in this paper supports the Council's Corporate Strategy: *Making Bromley Even Better*, specifically in relation to Ambition 5: To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
- 5.2. The process also helps to meet an Action Point under Strategic Objective 2 within the Council's *Open Space Strategy 2021-2031*, under which it aims to regularly review the building stock within its Open Space Portfolio to ensure that it is fully occupied and reflects both current and future objectives.

#### **6. FINANCIAL IMPLICATIONS**

- 6.1. This paper seeks to inform members around the letting of parks pavilions moving forward.

- 6.2. The Operational Property Review identified a total estimated refurbishment cost of £17.8m to buildings within the Open Space Portfolio which would result in a reduction of £4.5m maintenance liability, however as identified in the report there is currently no provision within either the Capital Budget, the OPR Programme budget or the Parks Maintenance budget to undertake this work.
- 6.3. The buildings within the Open Space portfolio are not required for the delivery of statutory services but they are used for the delivery of strategic partnerships. Objective 4 of the Operational Estate Strategy therefore notes that officers will seek to negotiate lease arrangements that divests the Council of its ongoing maintenance liabilities wherever possible. Disposal is not recommended for these buildings due to the location of these buildings.
- 6.4. Whilst it is not possible to fully estimate the total receipts that will be generated as a result of any increased rents, the discharging of the Council's maintenance responsibilities and/or investment into the buildings by respective tenants, the process will contribute towards reducing the significant maintenance liability it currently faces across its property portfolio.
- 6.5. The grants referenced in paragraph 3.27 totalling £105k are currently funded from the parks and greenspace revenue budget and administered by idverde on the Council's behalf.

## **7. LEGAL IMPLICATIONS**

### Local Government Act 1972 (LGA 1972)

#### 7.1. The Act required that:

any intended disposal of park land (open space) must be advertised in the local press for 2 consecutive weeks to consider objections (sections 123(2A) and

demonstrate that best consideration reasonably obtainable has been obtained (section 123 (2)

- 7.2. A lease of 7 years or more is considered a disposal under the LGA 1972 and when granting a new lease for open space, the open space notice procedure mentioned above must be complied with alongside with the Council complying with the requirements of S.123 LGA 1972 i.e. the best value requirements.

### Open Spaces Act 1906 (the 1906 Act)

- 7.3. Section 10 of the 1906 Act 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.

### The Greater London Parks and Open Spaces Order 1967 (the 1967 Order)

- 7.4. Article 7 of the 1967 Order empowers local authorities to provide facilities for public recreation in any open space in greater London. Article 11 sets out provisions in relation to the exercise of those powers, including that the powers cannot be exercised in such a way that members of the public are by reason only of the exercise of those powers, unable to obtain access without charge to some part of the open space.
- 7.5. The 1906 Act and the 1967 Order was applied in the case of *Muir v Wandsworth Borough Council* [2017] EWHC 1947 (Admin) (28 July 2017). The High Court found Wandsworth to have acted unlawfully in granting a nursery lease of part of Wandsworth Common. The obligation under section 10 of the 1906 Act applies equally to buildings in the open space.

Local authorities will therefore need to ensure that care is taken not to prevent public use of such buildings for a significant period of time. Consideration also needs to be given whether the services provided by the proposed by the tenant can be said to be for the benefit of the public as a whole, rather than just a specific group of people.

### Grant Funding

- 7.6. In terms of the grant funding, the Council has the power under Section 1 of the Localism Act 2011 to deliver grant funding to eligible persons or organisations. In exercising this power, the Council must have due regard to all relevant circumstances and local need in allocating funds on a discretionary basis and treat applicants in a fair manner. The Council should make it clear the rationale upon which funds will be allocated and ensure that organisations submitting applications for the funding are aware of the criteria that will apply.
- 7.7. The Council will also need to be mindful of its obligations under the Subsidy Control Act 2022 (the Act). A subsidy can arise when a public authority provides support to an enterprise that gives them an economic advantage, meaning equivalent support could not have been obtained on commercial terms. The purpose of the subsidy control regime is to prevent public authorities from giving financial advantages to enterprises in a way that could create excessive distortions of competition. Appropriate legal advice will need to be sought when the grants are made in order to ensure that either no subsidy arises or that the subsidy falls within the general exemption for minimal financial assistance (MFA) which allows public authorities to award small subsidies without the need to comply with the majority of the subsidy control requirements outlined in the Act. The template grant agreement should include an MFA declaration which can be completed if required.

## **8. PROCUREMENT IMPLICATIONS**

- 8.1. There are no procurement implications relating to the issue of the leases for the various pavilions and park buildings.
- 8.2. The report also seeks delegated authority to the Chief Officer to enter into appropriate grant agreements to community organisations for parks and open spaces as well as a further award of a grant to the Chislehurst Conservators for a period of five (5) years commencing 2024 at a value of £36,310 per annum (whole life value of £181,550 for the five-year term).
- 8.3. Similar grant awards have been paid to the Chislehurst Conservators since approximately 1994 and the cumulative value of this grant is likely to be significant.
- 8.4. Grant payments of this type may be subject to the Public Contracts Regulations 2015 where receipt of the grant is conditional upon use of funds or services to be delivered (as opposed to a 'gift' of funds). Legal advice should be sought when setting any conditions of grant to determine the scope of the grant. If subject to the Public Contract Regulations 2015, the cumulative value of the grant will exceed the thresholds set out in Part 2 of the Public Contract Regulations 2015 for a Services contract. However, for the reasons set out in sections 3.29 to 3.33, there are no other organisation able to undertake the protection of Chislehurst and St Paul's Cray Commons in this manner and therefore Regulation 32 of the Public Contracts Regulation 2015 may apply allowing award via negotiated procedure due to technical reasons (lack of competition or available market).
- 8.5. An exemption from tendering is permissible under the general waiver power of the Council (CPR 3.1). The Council's specific requirements for authorising an exemption are covered in CPR 13 with the need to obtain the Approval of the Portfolio Holder following Agreement by the Chief Officer, the Assistant Director Governance & Contract, Director of Finance, and the

Director of Corporate Services. In accordance with CPR 2.1.2, Officers must take all necessary professional advice.

8.6. The actions identified in this report are provided for within the Council's Contract Procedure Rules, and the proposed actions can be completed in compliance with their content.

## 9. PROPERTY IMPLICATIONS

9.1. The processes recommended in this paper have been carefully developed in close consultation with the Estates team and legal colleagues. This followed a review of past procedures and recent case work involving lease renewals, lease re-gearings and rent reviews.

9.2. The purpose of the review by Estates was to:

- Develop a clear process that can be easily understood and followed by interdepartmental officers, stakeholders, and elected members.
- Streamline the transaction process, bringing efficiency, reducing timelines and costs associated with granting leases.
- Bring consistency to lease documents and the obligations associated with these commitments so that these can be adopted and applied to property and landed assets throughout the Parks' portfolio to effectively manage the Council's position.

9.3. The process was achieved by reviewing:

- The drafting and content of leases (and associated documents and forms) previously granted by the Council.
- The objectives set out in the Operational Estates Strategy, Open Space Strategy and Regeneration Strategy.
- The aspirations and directives set out in the Council's Operational Property Review (Committee Report **CSD22139**) which aimed to ensure:
  - I. That there is a commercial use within the building that provides the Council with value for money as per its statutory duty.
  - II. That the Council divests itself of all the liabilities and ongoing maintenance of the building.
  - III. That it produces a community benefit and diversifies use of the Open Space in question in line with our Open Space Strategy and Playing Pitch Strategies.
- The requirements under section 123(2), Local Government Act 1972, and the objective of achieving best consideration with regard to qualifying leasehold arrangements.
- Adherence to The Scheme of Delegation to officers Constitution Appendix 10.
- Internal process and standard procedures for leasing and the process of seeking authority by the head of Estates and Asset management, transaction approval requirements and legal instructions.

9.4. The Council's Estates team must be formally instructed by the service department on all transaction work.

## 10. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

10.1. Officers' assessment of Best Value will incorporate an analysis of the sustainability of any construction work that any prospective tenant may need to undertake to prepare the building asset for their proposed purpose, along with that of their proposed on-site operations once established.

10.2. Any prospective tenant will also retain responsibility for ensuring that they undertake any necessary surveys that may be required before any works commence including (e.g. Wildlife and Tree Surveys).

10.3. The application process also requires prospective tenants to illustrate how they will maintain good relations with existing site stakeholders, as well as submitting any Equal Opportunities Policies that they have in place.

## 11. IMPACT ON THE LOCAL ECONOMY

11.1. <sup>(OBJ)</sup> It is hoped that inviting prospective tenants from a range of backgrounds to submit bids will help to create a diverse set of facilities within Open Spaces that align with the needs of the local economy and communities thus meeting a key Action Point under Strategic Objective 4 of the Council's *Open Space Strategy 2021-2031*.

## 12. IMPACT ON HEALTH AND WELLBEING

12.1. <sup>(OBJ)</sup> It is hoped that inviting prospective tenants from a range of backgrounds to submit bids will result in a diverse range of proposals which impact on health and wellbeing to be submitted. This includes those that help to diversify sporting facilities and the number of active uses that one space can accommodate, through to those that may enhance opportunities for social interaction (e.g. fostering gatherings of individuals with a shared purpose or interest), thus meeting key action points within Strategic Objectives 3 and 4 of the *Open Space Strategy*.

## 13. CUSTOMER IMPACT

13.1. <sup>(OBJ)</sup> The Open Space Building Stock covers a range of sites in the Portfolio including both Parks and Recreation Grounds. Accordingly, this process in conjunction with the *Open Space Strategy 2021-2031* will impact upon all users of the borough's Open Spaces with built assets.

<b>Non-Applicable Headings:</b>	Personnel Implications, Ward Councillor Views.
Background Documents: (Access via Contact Officer)	<b>Report CSD22139:</b> Operational Property Review Open Space Strategy Regeneration Strategy

## APPENDIX 1

The below table gives an indication as to when different leasing arrangements across the Open Space Portfolio are due to be renewed, along with any that require regularising as they remain open-ended:

Year	Pavilion Renewals
2024	<p>Bromley Council Bowling Club Association with leases at the following locations:</p> <ul style="list-style-type: none"> <li>- Alexandra Recreation Ground</li> <li>- Coney Hall Recreation Ground</li> <li>- Croydon Road Recreation Ground</li> <li>- Goddington Park</li> <li>- Poverest Park</li> <li>- Queensmead Recreation Ground</li> <li>- South Hill Wood</li> <li>- Whitehall Recreation Ground</li> <li>- Willett Recreation Ground</li> </ul> <p>Alexandra Recreation Ground Pavilion and Public Conveniences</p>
2025	<p>Croydon Road Recreation Ground Café            Kelsey Park Café and Public Conveniences            Parkfield Recreation Ground Pavilion            Sparrows Den Pavilion 1 (Pitch and Putt).</p>
2026	<p>Cator Park Pavilion and Former Public Conveniences            Harvington Sports Ground Pavilion            Mottingham Sports Ground Pavilion and Public Conveniences</p>
2027	<p>Coney Hall Recreation Ground and Public Conveniences            Norman Park Pavilions x 4</p>
2029	<p>Betts Park Pavilion            Chislehurst Recreation Ground Tennis Pavilion</p> <p>Queensmead Recreation Ground Pavilion</p>
2031	<p>Petts Wood Recreation Ground Pavilion</p> <p>Farnborough Recreation Ground Tennis Clubhouse</p> <p>Sparrows Den Pavilion 2 (Rugby)</p>
2032	<p>Hoblingwell Wood Recreation Ground Clubhouse</p>
2038	<p>Goddington Park Pavilion and Public Conveniences</p>
2039	<p>Cudham Recreation Ground Pavilion</p>
2042	<p>Chislehurst Recreation Ground Pavilion and Café</p> <p>Farnborough Recreation Ground Sports Pavilion</p>

2056	Havelock Recreation Ground Pavilion
2058	Goddington Park Sports Club Pavilion
To Regularise	Blake Recreation Ground Pavilion Chelsfield Recreation Ground Cricket Pavilion Kelsey Park Information Centre  Poverest Park Sports Pavilion St Mary Cray Recreation Ground Pavilion
Vacant	Biggin Hill Recreation Ground Pavilion  Chelsfield Recreation Ground Pavilion  Croydon Road Recreation Ground Sport Pavilion  Croydon Road Recreation Ground Former Public Conveniences  Sparrows Den Pavilion 1 (partially vacant)  Stanhope Recreation Ground