

TOURISM, COMMUNITIES, CULTURE & LEISURE COMMITTEE**Thursday, 22 June 2023**

REPORT TITLE:	COMMUNITY ASSET TRANSFER HOYLAKE MUNICIPAL GOLF COURSE (UPDATE) BROMBOROUGH CIVIC CENTRE WOODCHURCH LEISURE CENTRE BRACKENWOOD GOLF COURSE
REPORT OF:	DIRECTOR OF RESOURCES

REPORT SUMMARY

This report updates on the community asset transfer (CAT) of Hoylake Municipal Golf Course, and makes recommendations on community asset transfer (CAT) matters relating to Bromborough Civic Centre, Woodchurch Leisure Centre and Brackenwood Golf Course.

It builds upon the CAT decisions made by this committee at its meetings of 16 June 2022, 25 October 2022, 2 February 2023 and 9 March 2023.

This report meets the following priorities in the Wirral Plan 2021-26

- Safe, vibrant communities where people want to live and raise their families.
- A prosperous inclusive economy where local people can get good jobs and achieve their aspirations.

This matter has the potential to affect all wards.

This is a Key Decision

The Heads of Terms, Business Plans and commercial advice referred to in this report are confidential for commercial reasons. Therefore, Appendices 1, and 2 of this report are exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

RECOMMENDATION/S

The Tourism, Communities, Culture and Leisure Committee is recommended to:

- (1) Agree to the use of Brackenwood Golf Course for playing pitches, Biodiversity Net Gain, and community access to support Local Plan priorities;

- (2) Recommend to Policy and Resources Committee, disposal of Bromborough Civic Centre for the best achievable consideration towards repaying the Capitalisation Directive
- (3) Authorise the Director of Regeneration and Place to invite demolition tenders for Woodchurch Leisure Centre and explore future uses for the site to support Local Plan priorities.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 The recommendations within this report enable the Committee to make decisions on the assets that are in scope for Community Asset Transfer (CAT).
- 1.2 If this Committee resolves to transfer Brackenwood Golf Course to Brackenwood Community Golf Limited, and Bromborough Civic Centre to one of the two groups who have submitted business plans, then under the Constitution, this must be a recommendation to the Policy and Resources Committee, for their decision, as the asset values are over £500,000.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The CAT process has been a primary consideration for this report which follows on from resolutions agreed by this Committee at its meetings of 16 June 2022, 25 October 2022, 2 February 2023 and 9 March 2023.

3.0 BACKGROUND INFORMATION

Hoyle Municipal Golf Course (update)

- 3.1 The Royal and Ancient (R&A) and Royal Liverpool Golf Club are working on their business plan for a community asset transfer of the Hoyle Municipal Golf Course. This will secure Hoyle as a future venue for The Open Golf Championship and include short form golf formats, technologically enhanced driving range facility, playing pitches, Biodiversity Net Gain and community access. It is anticipated that the business plan will be submitted by December 2023 and then reported to this committee.

Bromborough Civic Centre

- 3.2 This Committee, at its meeting on 2 February 2023 invited business plans from the Neo-Community Group and Bromborough Civic Community Group Limited. These business plans have been independently assessed by C.co who provided the same support to the library business plans.
- 3.3 Their conclusions are that both submissions are viable in terms of asset transfer and that against the CAT criteria, Neo scored 83.5 and Bromborough Civic Community Group Limited 74.5. The detailed C.co assessment is in the exempt Appendix 1 of this report.

- 3.4 In the Committee report on 2 February 2023, it was identified that this property has a commercial value of over £500,000 and that this matter needed to be considered alongside any CAT transfer. Both groups were advised of this at the outset of the business plan process. CBRE have provided commercial advice to the Council on this matter which is in the exempt appendix 1 of this report.
- 3.5 The Director of Finance has advised that given the challenging financial position of the Council, the requirement to repay to Government the sum borrowed through the Capitalisation Directive (£13.2m) by the generation of capital receipts, and the commercial advice received from CBRE, that this property should be part of a strategic disposal programme to meet these objectives rather than be transferred through the community asset programme.

Woodchurch Leisure Centre

- 3.6 Woodchurch Leisure Centre was opened in the late 1960s. It is a very dated, and complex asset which comprises of a swimming pool and a variety of rooms and spaces that have been used for a range of leisure related activities over the years. The Leisure Centre was closed during Covid and never reopened, and as a result it was agreed to close permanently in March 2022 due to its being surplus to requirements and to reduce significant operating deficits. The asset was then put into the CAT process. In the last month, the building has been subject to significant vandalism which will increase the costs for bringing it back into use.
- 3.7 Following, an expression of interest process, the submission of two business plans was agreed by this Committee. These submissions have been made by Helen Diamond Swimming Limited and Woodchurch Well-being.
- 3.8 It has been necessary, on several occasions, for officers to enter very detailed discussions and clarifications with both organisations given the complexity of the asset. It requires significant skills and costs to bring it back into use to meet all the health and safety and operational requirements for such buildings. The proposals are dependent on grant funding applications. There are rising energy costs (which are difficult to forecast and present a significant risk). Income assumptions are considered optimistic. The issue of generating income not just to repair but to maintain a building which is over 60 years and beyond its economic life is very challenging.
- 3.9 It must be said that both organisations, in their respective areas have much to offer in terms of running services and they do this already in other parts of Wirral. They have worked with the Council to seek to address the issues set out above. Updated versions of the business plans have been submitted and assessed objectively based on the evidence produced by both organisations. There are still some gaps in the information provided. Given the significant holding costs for the asset (set out in paragraph 4.4 below) and the opportunities that have been given to explore this CAT option, it is necessary to bring this process to a conclusion by seeking a decision.
- 3.10 It is considered that both business plans present significant risks in terms of
- (1) optimistic income projections;
 - (2) calculation of energy costs;

- (3) dependency on grants;
- (4) the ability to generate sufficient income to maintain the asset in the future given its age (and the recent vandalism will incur additional costs for the project).
- (5) and because of the above factors, viability

3.11 It is therefore recommended that this asset is not transferred, but that it is demolished and that options for the site are reviewed to support Local Plan priorities.

Brackenwood Golf Course

- 3.12 This Committee, at its meeting on 2 February 2023, resolved that “The Director of Resources be authorised to start negotiating Heads of Terms with Brackenwood Community Golf Limited on the basis of their business plan, to seek to agree Heads of Terms to transfer the course and report back on the outcome of the negotiations and options, which support Local Plan priorities for decision by this committee.”
- 3.13 Heads of Terms have been negotiated with Brackenwood Community Golf Limited (BCGL). The Heads of Terms are included in the exempt Appendix 2 to this report. BCGL is a newly formed not for profit company for the purpose of this asset transfer. For the avoidance of doubt Brackenwood Golf Club is a separate legal entity.
- 3.14 In the Business Plan submitted by BCGL a 99-year lease term was being sought. For this length of lease, the property market would normally expect a premium to be paid in relation to the capital value of the asset in the sum of £950,000. The company could not afford this and so a lease period of 40 years was negotiated to reflect the term of years it requires having regard to the investment required in the course.
- 3.15 For this length of lease, the Council has assessed a market rent through an independently commissioned commercial -in- confidence report which has been shared with BCGL for the sole purpose of the negotiations. The company have challenged this market rent. BCGL advise that “their business plan illustrates that if they paid this level of rent, they would not be able to invest in the golf course, or the various community and environmental benefits, to the level required.” So, they have made a proposal in relation to rent which is below the market rent identified in the report. If members were minded to support a transfer of this asset, then a view on this proposal would need to be taken. As these matters are commercial, they are set out in the exempt Appendix 2 to this report.

Local Plan priorities – Biodiversity Net Gain

- 3.16 The proposals set out in the business plan from BCGL support the Local Plan by providing opportunities for Biodiversity Net Gain.

Local Plan priorities – Playing Pitches supporting Brownfield First Strategy

- 3.17 Wirral already has a significant deficit of playing pitches across all sports (rugby, football, hockey etc) in all areas of the Borough as set out in the Playing Pitch Strategy. This Strategy recommends a focus on HUB sites as one pitch sites are not efficient and expensive to maintain. In addition, the Local Plan is a plan for growth which requires the identification of additional new playing pitches sites to support

development on brownfield land which is a key priority agreed by Members in the Local Plan. There are a limited number of such sites which can accommodate playing pitches in Wirral. Without identified land for new playing pitches, the Council will have significant difficulty in demonstrating that the Sport England requirement for new pitches to meet growth can be accommodated and as such planning applications on brownfield sites would not be policy compliant and could not be approved. This will add to the argument that Green Belt sites should be released as these locations can provide new pitches to meet the demand.

- 3.18 These matters have been discussed with BCGL and in correspondence with the Council they have advised that they cannot consider a nine-hole golf course and playing pitches for viability reasons. They have advised that they could consider a hybrid model making changes to the course structure, using funded capital expenditure or grant funding as part of sports pitch provision, but retaining an 18-hole golf course and not affecting their proposals for Biodiversity Net Gain. From the Council's perspective it is unlikely that such a proposal would provide the number of pitches required from this site to contribute towards the present and future deficit for playing pitch provision.
- 3.19 The other alternative is not to transfer the course and to use it for playing pitches, Biodiversity Net Gain, and community access. At 115 acres, it represents one of the largest sites for a hub of playing pitches (defined as two or more pitches on the same site) in Wirral and could accommodate between 8 and 12 pitches which would make a significant contribution (along with the other limited number of hub sites sites) towards providing land to meet the deficit. It is estimated that all the currently potential hub sites for playing pitches will be needed to support the Local Plan over the plan period. Biodiversity Net Gain and continued community access to the area will be provided alongside the playing pitches.
- 3.20 There are currently 11 golf courses in Wirral catering for all levels of golf. There remains adequate availability within the remaining municipal courses (Arrowe Park and The Warrens) to accommodate any current and increasing demand for such facilities.

Local Plan priorities – land use designation

- 3.21 Brackenwood Golf Course is in the Green Belt and will remain as open space accessible to the public.

4.0 FINANCIAL IMPLICATIONS

- 4.1 The following table sets out the capital value of each asset:

ASSET	Estimated Asset Value	Estimated Capital Investment Costs
Brackenwood Golf Course	£950,000	£1.4m
Woodchurch Leisure Centre	£1 (nominal value given the condition of the asset)	£1.1m over ten years
Bromborough Civic Centre	£600,000	Not yet assessed

The estimated capital investment costs come from surveys and reports which have been completed over the past few years. Such investment is required over several years. The costs are likely to have increased given the increase in construction, material costs and rises in inflation. This information is given for information purposes.

- 4.2 In the 2022/23 budget, the Council agreed to close two 18 – hole municipal golf courses (Brackenwood and Hoylake) to address a significant budget deficit in the operation of the service (circa £335,000 per annum). This decision has been very successful, and the service is now in surplus, achieving over £60,000 above its income target for 2022/23. Reopening Brackenwood golf course will undermine this achievement and lead to competition and loss of income, incurring financial pressures on the Council’s budget, that potentially could even jeopardise the viability of the remaining sites (Arrowe Park 18-hole course and The Warrens nine-hole course).
- 4.3 If Brackenwood Golf Course is used for playing pitches, Biodiversity Net Gain, and community access, Officers will prepare an implementation strategy for the site which will seek funding from developer contributions and National Sporting bodies to provide the pitches, and identify arrangements, potentially with external organisations, for them to use revenue income to meet future running and maintenance costs. If successful, this would not require any Council funding. The work on Biodiversity Net gain will be led by the Climate Change Team in the Neighbourhoods Directorate.
- 4.4 There are significant, unbudgeted, holding costs for Woodchurch Leisure Centre which amount to approximately £200,000 per annum (£16,667 per month). These pressures will need to be mitigated in year.
- 4.5 The Council has an allocated sum of £320,000 to demolish Woodchurch Leisure Centre. Officers, following local consultation, will prepare an implementation plan for this site which will consider future uses and funding for delivery.

5.0 LEGAL IMPLICATIONS

- 5.1 The terms of reference for the Tourism, Communities, Culture and Leisure Committee are to consider applications for transfers of assets to organisations that will provide community benefits e.g. main uses which would further the social well-being and interests of the local community. Examples would include cultural,

recreational and sporting uses. Outside the definition would be use that was predominantly educational. Any appropriation of land from use as a library to educational use would require the approval of Policy and Resources Committee. The Tourism, Communities, Culture and Leisure Committee should refer to Policy and Resources Committee surplus assets for which the Committee saw no alternative community use.

- 5.2 In general the Committee in reaching a decision must consider all relevant considerations and disregard irrelevant considerations and come to a reasonable conclusion. That would include considering any potential uses for the assets which are alternative to those being proposed by the applicants for CAT transfers. Not to consider alternative uses would expose any decision to legal challenge.
- 5.3 A relevant consideration is the Council's fiduciary duty to the Council Taxpayer to take account of their interests in maximising income or savings and obtaining the best price reasonably obtainable for the disposal of any asset. The Committee should therefore consider any income or capital receipt forgone because of donating an asset for community use. Any financial loss would have to be clearly outweighed by the strength of the community benefits. The Council's current financial position is a relevant factor.
- 5.4 If the community benefits are unlikely to be realised by a CAT transfer because, for example, of a lack of financial viability or necessary expertise, then they should be given little or no weight in the decision-making process, particularly if the CAT transfer would commit the Council to capital or revenue support which would be wasted if the community benefits were not realised.
- 5.5 The Council is under an additional duty to obtain the best price reasonably obtainable for the disposal of any interest in its land unless the disposal is for a lease for less than seven years. If the proposed lease is for a longer term, then a less than market rent would be lawful if the value of the community benefits outweighed any loss of income. If, however, the value of the land free of any restrictions imposed by the Council would be £2million or more, then the Secretary of State's consent would be required.
- 5.6 A further consideration is the Subsidy Control Act 2022 which prohibits subsidies by public bodies to an enterprise (even if not for profit) that offers goods or services on a market. If the financial assistance (e.g. charging a below market rent in a lease) conferred an economic advantage on the selected enterprise that might distort competition with other providers, it would be unlawful unless the advantage were below the "de minimis" level of £315,000 (measured over the length of the proposed lease) or the rigorous requirements for a lawful subsidy under the Act were satisfied.
- 5.7 Any proposed disposal by the Council of an interest in land that is public open space (i.e. land held for the purpose of public recreation such as public parks or golf courses that are open to the public and not restricted to a private membership) must be advertised in local newspapers for two successive weeks. Any objections received would have to be considered by the Committee before any decision were made on the disposal.

- 5.8 The grant of a lease to a CAT transferee would confer exclusive possession of the land to the organisation. The Council could impose covenants on the lessee e.g. to keep the property in good repair or not to use it for any purposes other than those specified. Those covenants would be enforceable but any decision by the Council to forfeit the lease for non-compliance could be overturned by the Court in its discretion if the lessee sought relief from forfeiture. The Council would in effect lose control of the land for the duration of the lease (and the lessee would have the right to a renewal of the lease on its expiry unless its right were excluded pursuant to the Landlord and Tenant Act 1954).
- 5.9 Any disposal of the land for a different use than the one formerly established by the Council would have to be compliant with any legally enforceable covenants imposed by previous owners or current landlords and with any requirements for planning permission.
- 5.10 If the Committee were to agree in principle to a CAT transfer, Asset Management team would negotiate heads of terms with the transferee. Those terms would then be referred to the Tourism, Communities, Culture and Leisure Committee for approval and to Policy and Resources Committee if the value of the land exceeded £500,000 whereupon the legal documentation and processes would be undertaken. Any capital works by the Council would have to be completed prior to the grant of the lease. Pending completion of the CAT transfer, any costs incurred in maintaining the asset would have to be met by the Council.
- 5.11 If the Committee decided not to proceed with a CAT transfer, the property would either be considered for an alternative use by the Council or put on the market for sale or rent in accordance with the Council's Asset Disposal Strategy.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The Council has existing resources in place to progress the recommendations set out in this report.

7.0 RELEVANT RISKS

- 7.1 Transferring any asset carries a risk that it may not be successful. To reduce this risk, the Council has undertaken a very thorough process in terms of assessing each business plan, the funding required and considering all other relevant factors as detailed in this report.
- 7.2 In addition, under the CAT proposals the Council would be leasing the assets to the relevant organisation and if any transfer failed the asset would return to the Council but only after possible litigation and the Court or the lessee agreeing to the forfeiture of the Lease. Consideration could then be given to the options. Most of the assets have a prospect of an alternative use, so the Council could market the sites to realise a rent or capital receipt after any court process has been completed.
- 7.3 A communications strategy is in place to manage any reputational risks associated with the CAT project.

- 7.4 Any post transfer risks (e.g. ensuring compliance with the lease, maintaining the property etc) will be dealt with by lease provisions and regular annual monitoring of these matters.
- 7.5 A register of all assets transferred will be kept by the Asset Management Team. The annual report to members on the Asset Strategy 2022-27 will report progress on CAT.
- 7.6 Without identified land for new playing pitches, the Council will have significant difficulty in demonstrating that the Sport England requirement for new pitches to meet growth can be accommodated and as such planning applications on brownfield sites would not be policy compliant. This has significant risks for the delivery of the Brownfield First Strategy that Members have agreed in the Council's Local Plan. To manage this risk, it is proposed to use the former golf course site for playing pitches along with preparing a pitch implementation delivery plan.
- 7.7 For the reasons set out in this report, there are significant risks in transferring Woodchurch Leisure Centre. To manage these, it is proposed not to transfer the asset and to demolish it thereby also removing the risk of increasing holding costs and additional costs from any future vandalism. Future options for the site will then be considered with the local community.
- 7.8 The Council is required to repay to Government the sum of £13.2m borrowed through the Capitalisation Directive. This must be funded through the generation of capital receipts as there is no other means of repaying this amount. If assets with a significant value are transferred, then this will significantly impact on the Council's ability to achieve the repayment required.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Engagement has taken place with each of the organisations as they prepared their business plans. Following the assessment process, further engagement took place with each group to provide feedback and to discuss the issues and options as set out in this report.
- 8.2 Following the decision of this Committee, the outcome will be discussed further with each organisation as appropriate.

9.0 EQUALITY IMPLICATIONS

- 9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity.
- 9.2 As part of due diligence, the Council has checked all the organisations mentioned in this report have, or will have, all the relevant policies and procedures in place to address Equality Legislation

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 The assets referred to in this report are existing and vary in age and construction. In considering the business plans consideration was given to reduce carbon emissions and securing environmental improvements where this was possible, Discussions have taken place about the possibilities and benefits of carbon reduction from building retrofit and low carbon heating systems.
- 10.2 The Council has provided energy certificates and Energy Performance Certificates as we are obliged to do when leasing a property. These detail potential interventions to reduce energy consumption.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 Transferring the assets has several community benefits which are set out in the Business Plans and Heads of Terms document. A number of new organisations will be formed to run the assets, and this will provide new opportunities within those communities for community wealth building. The local focus of activity within those communities has the potential to complement existing facilities and create new economic opportunities for local groups.

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APPENDICES

- Appendix 1 Bromborough Civic Centre – C.co assessment and CBRE commercial advice (Exempt)
- Appendix 2 Brackenwood Golf Course – Heads of Terms document (Exempt)
- Appendix 3 Brackenwood Golf Course – Site Plan

Appendices 1 and 2 of this report are exempt from publication by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

BACKGROUND PAPERS

- 1. Community Asset Transfer Policy 2022

TERMS OF REFERENCE

This report is being considered by the Tourism, Communities, Culture and Leisure Committee in accordance with Section (c) of its Terms of Reference, in considering options and develop proposals for neighbourhood arrangements, including capacity building, use of assets and devolving powers and services to neighbourhoods;

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
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Tourism Communities Culture and Tourism Committee	16 June 2022
Report on CAT (stage 1)	
Report on CAT	25 October 2022
Report on CAT	2 February 2023
Report on CAT	9 March 2023