



POLICY AND RESOURCES COMMITTEE

Wednesday, 17 July 2024

REPORT TITLE:	BRACKENWOOD GOLF COURSE
REPORT OF:	DIRECTOR OF NEIGHBOURHOOD SERVICES

REPORT SUMMARY

This report seeks a decision on the future use of the former Brackenwood Golf Course in Bebington, following the decision by Brackenwood Community Golf Limited not to progress the asset transfer of the course, previously agreed with the Council.

This report meets the following priorities in the Wirral Plan 2023-27:

- Protect our environment!
- Safe, resilient and engaged communities

This matter has the potential to affect all wards.

This is a Key Decision

RECOMMENDATION/S

Policy and Resources Committee is recommended to approve that:

1. the Council shall retain the former Brackenwood Golf Course and maximise its use for grass playing pitches for a variety of sports (without floodlights) and Biodiversity Net Gain, to support the Council's Local Plan, develop improved community access to the site for the benefit of residents and explore the opportunities for allotments (for which there is a significant demand in Wirral) on part of the site; and
2. Authorise the Director of Neighbourhoods to progress the development of this site for the purposes set out in recommendation (1) above and report back to this Committee if any further decisions are required.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATION/S

- 1.1 Brackenwood Community Golf Limited has advised the Council that they cannot progress with the community asset transfer, agreed with the Council, for economic reasons. In their view it is not viable to re-open the course as an 18-hole golf course. Therefore, as the asset transfer cannot progress, a decision is needed on the future use of this site, and this report sets out three options.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 There are two alternative options which can be considered by Members in relation to this site following the decision of Brackenwood Community Golf Limited not to progress with the transfer. These are:

(1) disposal of the asset; and

(2) Community Asset Transfer.

Option 1 - Disposal of the asset.

- 2.2 A decision could be taken to dispose of this asset. There may be parties interested in exploring a use of the site for sport and recreation purposes on a commercial basis. If Members wished to explore this, it is recommended that a soft market testing exercise takes place before any formal disposal processes commence, to assess if there is any interest from the private sector in this opportunity. An independent valuation of the site was done during the asset transfer process and this showed a value of up to £950,000 for use as a golf course and other open space recreation uses. However, prospective purchasers will take into account the current condition of the course including the significant drainage issues and the actual value would only be determined following a full marketing exercise.

Option 2 - Reopen the Community Asset Transfer process.

- 2.3 This would require the process to start from the expression of interest stage to ensure that any not-for-profit-organisations who were interested in a transfer would start from the same place. This would then follow the process set out in the Community Asset Transfer Policy. The risk is, given the recent decision of Brackenwood Community Golf Limited, that any future asset transfer proposals may also not be viable.

3.0 BACKGROUND INFORMATION

- 3.1 The Council has been considering the transfer of Brackenwood Golf Course since its closure by the Council as part of the 2022/23 Budget process, in March 2022. This has been a lengthy and complex process. This Committee, on 27 July 2023, unanimously agreed a Heads of Terms document for the transfer of Brackenwood Golf Course to Brackenwood Community Golf Limited. This included four full-size playing pitches. The Heads of Terms in the published report was for two full-size playing pitches, but this was increased to four, at the request of Brackenwood

Community Golf Limited as it advised that it could provide space for these two additional pitches alongside operating an 18-hole golf course. The decision reflected the initial direction provided by the Tourism, Communities, Culture and Leisure Committee on 22 June 2023 albeit the proposal had been developed since the Committee meeting in terms of both the financial implications to the Council and in terms of spatial planning as regards playing pitches.

- 3.2 Brackenwood Community Golf Limited did more work on this and advised the Council that it could only provide two full size pitches. Therefore, this Committee on 23 November 2023 agreed a variation to the agreed Heads of Terms reducing the number of 11-a-side playing pitches from four to two to allow the transfer to progress.
- 3.3 In February 2024, as officers were progressing the transfer, Brackenwood Community Golf Limited advised the Council that it could not progress with the agreed transfer in the current economic circumstances because it did not consider the 18-hole golf course proposal to be viable. Brackenwood Community Golf Limited has also advised it is willing to develop, with the Council, a proposal for the site which provides for a short form of golf, with a driving range and an increased number of grass playing pitches, if this would be of interest to the Council. Brackenwood Golf Club is disappointed with the view of Brackenwood Community Golf Limited and has advised that it would like an opportunity to bring forward a community asset transfer proposal with another golf operator to provide an 18-hole golf course with two full-sized grass playing pitches. Officers will respond to these parties once the decision of this Committee is known.
- 3.4 As context, it is important to note that the former golf course is located in the Green Belt and is therefore protected from inappropriate development. Residential purposes comes within the scope of inappropriate development for these purposes. The site only has value for open space/ outside sports and recreation uses as these are the only uses that could be compatible with the site's Green Belt status.
- 3.5 Since Brackenwood Community Golf Limited advised the Council that they cannot progress the agreed transfer, the Council has received a letter from the Planning Inspectors who are considering the regarding the Local Plan. This states that the Council's Local Plan is capable of being made sound with Modifications. It does not ask for more sites to be found for housing and therefore supports the Council's Brownfield First Strategy.
- 3.6 To deliver this strategy, the Council must meet the playing pitch demands which come with housing growth and also provide land for Biodiversity Net Gain to help offset any impacts resulting from the redevelopment of the regeneration sites. All new housing developments are required to provide or contribute to the provision of playing pitches to meet the new demand. The Council must meet this demand and Council owned sites, such as Brackenwood Golf Course (115 acres in size) and others can provide this opportunity for the provision required. The Council must identify sites for new playing pitches to support the housing development in the Local Plan. The issue of pitch provision will be assessed via each individual planning application as required by the policies in the Local Plan.

- 3.7 This report proposes that the Council should retain the former Brackenwood Golf Course and maximise its use for grass playing pitches for a variety of outdoor sports (without floodlights) and Biodiversity Net Gain, to support the Council's Local Plan, develop improved community access to the site for the benefit of residents and explore the opportunities for allotments (for which there is a significant demand in Wirral) on part of the site. The Biodiversity Net gain opportunities, would be subject to a requirement for the site to be available for more than 30 years, This proposal will (1) support the Council's Local Plan, (2) give a comprehensive use for the site in perpetuity and (3) develop a resource for use by local communities.

4.0 FINANCIAL IMPLICATIONS

- 4.1 A decision to dispose of the asset, should there be commercial interest for outdoor sports activities, may produce a capital receipt for the Council although the opportunity for this would have to be tested through a soft market testing process.
- 4.2 There are several funding opportunities which can be explored for option 2 if Members decide on this option.

5.0 LEGAL IMPLICATIONS

- 5.1 The terms of reference for the Policy and Resources Committee include to, amongst other matters, consider disposals of assets above £500,000 in value.
- 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. 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 its 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 transferring 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 In this regard it is important, if the committee is considering alternative option 2, to ensure that the terms of a community asset transfer do not significantly reduce the savings made, or increased income achieved as a result of the measures already taken by the full Council to fulfil its legal duty to balance its budget. 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.
- 5.5 In respect of alternative option 1, the Council is under an additional duty under section 123 of the Local Government Act 1972 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.

- 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 (eg. 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. The figure of £315,000 includes any previous financial assistance provided to the recipient by a public body during the past three financial years. Financial assistance would include any future discretionary business rates relief which is not given to its competitors.
- 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.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 6.1 The Council has existing resources in place to progress any decision of this Committee with regard to the asset.

7.0 RELEVANT RISKS

- 7.1 Disposing of the site may produce a capital receipt for the Council and result in a commercial opportunity for outdoor sports provision, but it will also result in the loss of opportunity for Biodiversity Net Gain and the control of the site to support the Local Plan. The Council would need to include relevant restrictions to prevent purchase by speculators who may seek to challenge the current planning status of the site.

7.2 Reopening a community asset transfer process creates a risk in that no viable options may come forward and the time taken to explore this would mean that other options to support the Local Plan priorities could not be progressed.

7.3 Retaining the asset and developing the proposal as outlined in this report reduces the risk to the delivery of the Council's Local Plan and supports the Brownfield first strategy

8.0 ENGAGEMENT/CONSULTATION

8.1 Extensive engagement has taken place with Brackenwood Community Golf Ltd throughout the community asset transfer process.

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.

9.2 It is not considered that any of the options outlined in this report will adversely affect any section of the community having protected characteristics.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The use of this site will enhance the Biodiversity Net Gain opportunities for Wirral in support of the Council's Local Plan and environmental policies.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 Use of this site by, and for the local community may create positive opportunities supporting community wealth building.

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APPENDICES

None

BACKGROUND PAPERS

1. The Council's Community Asset Transfer Policy 2022

TERMS OF REFERENCE

This report is being considered by the Policy and Resources Committee in accordance with section (iv), regarding land and property including major acquisition and disposals, which includes reserved decision making concerning any purchase, sale or transfer of a value in excess of, or likely to exceed, £500,000, unless

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Tourism Communities Culture and Tourism Committee Report on CAT (stage 1)	16 June 2022
Report on CAT	25 October 2022
Report on CAT	2 February 2023
Report on CAT	9 March 2023
Report on CAT	22 June 2023
Policy and Resources Committee	27 July 2023
Policy and Resources Committee	23 November 2023