

Nottingham City Council Delegated Decision



Nottingham
City Council

Reference Number:

4610

Author:

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Department:

Commercial and Operations

Contact:

John Wileman

(Job Title: Head of Sport, Community and Leisure, Email: john.wileman@nottinghamcity.gov.uk, Phone: 07973175292)

Subject:

Transfer of The Nottingham Tennis Centre to the Lawn Tennis Association (LTA)

Total Value:

£120,000 revenue saving
£86,000 capital receipt
£230,000 revenue expenditure
(Type: Capital and Revenue)

Decision Being Taken:

To approve the permanent transfer of Nottingham Tennis Centre staff to the LTA in line with Transfer of Undertakings (Protections of Employment) TUPE regulations that will apply to all the staff that are eligible and as outlined in Appendix 1 section 3.

To approve £230,000 revenue expenditure for replacement of the "Bubble" covered tennis facility as set out in Appendix 1 Section 8.

To accept a capital receipt of £86,000 from Highfields Leisure Park Trust for fixtures and fittings to be included as part of sale, as detailed below.

To delegate authority to the Director of Sport and Culture to implement the operational transfer in line with the terms of a transfer agreement developed with the LTA as outlined Appendix 1.

Reasons for the Decision(s)

The City Council and the Lawn Tennis Association (LTA) have been working closely together for the last 3 years to reduce the subsidy on the Nottingham Tennis Centre (Centre). This popular site currently runs at a deficit of around £120,000. In spite of significant efforts over the last 3 years, the subsidy cannot be reduced without developing the tennis offer and operating through an alternative delivery model.

A condition survey of the Centre was carried out in May 2018. This survey identified total investment required of over £1million over the next 10 years, of which approximately £700,000 related to mechanical and electrical services that are reaching the end of their economic life.

In March 2020, as part of the 2020/21 budget proposals, approval was given to transfer the operation of the Centre to an independent leisure provider. It was anticipated that this would result in an annual revenue saving to the Council of £120,000 and transfer the outstanding liabilities on the building.

Discussions and subsequent negotiations with the LTA over last 12 months have resulted in securing a long-term lease to run the Centre as a "tennis only" facility. Future investment would be focussed on all aspects of tennis and the ancillary facilities to support such a venue.

This decision sees the LTA taking on a full repairing lease and existing maintenance risks for the site whilst continuing a focus on tennis. In addition, there is an expectation that the LTA will invest significantly in the facility, over the period of the lease. This 150 year long-term lease between the Highfields Leisure Park Trust (who own the land) and the LTA has secured a capital receipt for the Trust.

Although this is predominantly a land sale, because the LTA wish to continue to operate the tennis centre as a business, TUPE is deemed to apply. As this is a TUPE of Council staff then the Local Government Pension Scheme (LGPS) terms will also be deemed to transfer across with the other more standard TUPE rights. This is not a concession contract, however for the purposes of transfer this is being treated as an outsourcing arrangement. The approach being taken is that admitted body status is required by the LTA and to be a scheme employer under LGPS. Discussions have been undertaken with the Nottinghamshire County Council and LTA for this with an application for Admitted Body Status submitted.

Energy supply to the Centre is from the installation of photovoltaic panels resulting in a revenue stream to the Council generated from the associated feed-in-tariffs (FiTs). Negotiation is taking place with the LTA to set up a Power Purchase Agreement with the Council for a period of 15 years. Under this agreement Energy Services will continue to supply energy to the Centre passing on a substantial reduction in electricity costs to the LTA whilst continuing to receive FiT income. Energy Services will be responsible for the management, repair and maintenance of the panels. This Power Purchase Agreement will be the subject of a separate decision.

Finally, as part of the transfer arrangements the Council will be due a capital receipt estimated at £86,000 for the fixtures and fitting and equipment to be included as part of the sale. This has been agreed to be deducted from the capital receipt received by the Highfields Leisure Park Trust. All professional fees that have been incurred by the Council in relation to developing the contract will also be deducted from the capital receipt received by the Trust.

Other Options Considered:

Option one - Continue as is: If the Council's Sport and Leisure Services remain responsible for the operational management of the Centre (as is current), due to the financial pressure of requiring subsidy, this could put the future of leisure and recreation activity on the site at risk. This might be through forced closure or deterioration of the offer. This could jeopardise the existing relationship with the LTA, who could remove their investment and commitment to tennis in the City and consider alternative sites for the prestigious Nottingham Open Tennis Tournament. Therefore this option was rejected.

Option two - Outsourcing to a leisure provider: A formal procurement process was to take place over the period March - September 2020 with invitations to tender from interested and suitable leisure providers. However, grant-funding agreements with the LTA in place until 2028 impose restrictions on the disposal of the Tennis Centre, whereby no disposal can be made without the consent of the LTA. Therefore the LTA's rights meant that there was only one operator the Council could approach. Therefore this option was rejected.

Option Three - Community Asset Transfer: This would see the transfer of management and/or ownership of public land and buildings from its owner to a community organisation for 'less than best consideration' - i.e. less than the highest obtainable or estimated market value. Since the land is owned by the Highfields Leisure Park Trust, this would be a decision for the them. Given the high operational costs and the existing repair and liabilities of the buildings there would be significant risks for the centre to be managed by a community organisation, and with it also to be offered at less than the obtainable market value, this option is not considered as in the best interests for the Trust. This assessment has been confirmed by an independent valuation report undertaken on behalf of the Trust. Therefore this option was rejected.

Background Papers:

None

Published Works:

Minutes of the Trusts and Charities Committee meeting held on 28 March 2022

Affected Wards:

Citywide

Colleague / Councillor Interests:

Any Information Exempt from publication:

Yes

Exempt Information:

Description of what is exempt:

The attached Appendix 1 is exempt. The appendix sets out the background and context for the transfer of Nottingham Tennis Centre to the Lawn Tennis Association (LTA) and contains exempt commercial, financial and contractual information.
Financial comments and advice

An appendix (or appendices) to this decision is exempt from publication under the following paragraph(s) of Schedule 12A of the Local Government Act 1972

3 - Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The public interest in maintaining the exemption outweighs the public interest in disclosing the information because the report contains commercial, financial and contractual information which if made available to the public may jeopardise any future potential contractual negotiations with alternative suppliers.

Documents exempt from publication:

Appendix 1 Transfer NTC to LTA Report 01..04.22.doc, DD Tennis Centre exempt finance comments.docx

Consultations:

Date: 28/03/2022
Other City Council Bodies:Trusts and Charities Committee
The Trusts and Charities Committee for Nottingham City Council as the sole Trustee of Highfields Leisure Parks Trust (HLPT), having received advice from Colleagues in the Council's sport & leisure, legal and finance teams, consider this transfer to represent best value for the Trust. This secures a significant capital receipt for HLPT for reinvestment. In making this decision the Trust have confidence that the LTA will be able to ensure the continuation of the Trust's charitable objectives namely for use of the land for leisure and recreation for the benefit of the City The transfer safeguards the future of tennis in the City bringing anticipated significant investment by the LTA as well as profile for the City from the national and international events.

Date: 28/03/2022
Other:John Wileman Head of Sport & Culture

A long-term lease with the LTA will ensure the Council achieves the anticipated saving, secure significant investment for the sustainable future of tennis in Nottingham and the continuation of major national and international events at the Centre. It also safeguards the Highfields/University land corridor as an important sporting and tourist destination hub.

Those not consulted are not directly affected by the decision.

Crime and Disorder Implications:

There are no crime and disorder implications with this proposal.

Equality:

Please login to the system to view the EIA document: Appendix 4 EIA Sport Leisure Tennis Centre transfer to LTA 080322.docx

Relates to staffing:

Yes

Relates to Council Property Assets:

Yes

Relates to Building Services:

Yes

Decision Type:

Portfolio Holder

Subject to Call In:

Yes

Call In Expiry date:

28/04/2022

Advice Sought:

Legal, Finance, Procurement, Human Resources, Equality and Diversity, IT, Property, Building Services, Other: Andy Whitley (andy.whitley@nottinghamcity.gov.uk)

Legal Advice:

The Council, acting as Trustee for the Highfields Leisure Park Trust, has agreed to a disposal of the Tennis Centre site on a long leasehold arrangement. That has been dealt with and agreed by the Trusts and Charities Committee. This report is now setting out the arrangements in respect of the closing of the Tennis Centre from a Leisure Services operational perspective. The Lawn Tennis Association will have no obligation to provide any tennis centre services for or on behalf of the Council and therefore this is not deemed to be a public procurement arrangement for services or a concession. It should be noted however that there will be appropriate user provisions set out within the lease document to ensure that the Trust objectives of delivering sporting and leisure activity at the site is maintained.

As the LTA wish to continue to deliver tennis related services from the site there is deemed to be a business transfer falling within the scope of TUPE. Accordingly Legal Services and HR are ensuring that required processes are being followed in this respect. In addition any pensions related issues which may arise from the transfer are being advised on and Nottinghamshire County Council as the LGPS Administering Body are engaged with this.

A transfer agreement is being finalised which will cover the primary matters of how staff and pensions are dealt with; any liabilities pre and post transfer for each party; and the transfer of any assets. For the avoidance of doubt it is only tennis specific elements of the operation that is being included within the transfer agreement. The wider leisure service offer that has previously been operated from the site will cease from the finalised transfer date.

The Council and the LTA have established a long term and successful relationship that has included support from the LTA through grants, and user agreements between the parties for the successful delivery of tennis events. The transfer agreement will include the release of the parties from any obligations under those long standing arrangements.

With regard to the provision of energy under a power purchase agreement, this arrangement is being finalised with the energy Team and will be dealt with under a separate decision.

Advice provided by Naomi Vass (Senior Solicitor) on 07/04/2022.

Finance Advice:

This advice is exempt from publication and is contained within an exempt appendix
Advice provided by Maria Balchin (Finance Analyst) & Tom Straw (Senior Accountant Capital Programmes) on 30/03/2022.

Procurement Advice:

Following on from the advice provided by legal services the proposal set out in the report is effectively a land deal and therefore is not subject to a procurement process. However, care needs to be taken to ensure that it remains a land transfer and obligations are not placed upon the trust that would constitute a procurement. Advice provided by Sue Oliver (Category Manager - Procurement) on 31/03/2022.

HR Advice: The LTA are continuing to operate as a business following the sale. Legal advice has confirmed that TUPE applies to staff. All staff involved have been consulted as well as trade union representatives. 13 staff are due to transfer over to the LTA on existing terms and conditions include entry in to the LGPS. Transfer due to take place 1st May. Staff presentation undertaken - no staff issues raised.

As part of consultation Trade Unions raised a concern that the LTA do not recognise unions. Legal advice was sought and discussed with the LTA and unions. LTA position remained the same but confirmed individuals will be able to seek TU support at relevant meetings (which is their statutory right) but not as part of collective bargaining. No further formal TU feedback received. Advice provided by Hannah Gemmill (HR Business Partner) on 29/03/2022.

Equality and Diversity Advice: The EDI considerations for this project has been documented on the EIA. The EIA has been quality checked by the EDI team. Advice provided by Saema Mohammad (Service Redesign Consultant) on 30/03/2022.

Other Advice: CRES support the proposals, and further details are included in appendix 1. A DDM will follow for the PPA arrangement with the LTA for the installed Solar Panels in due course and prior to the LTA taking the lease. Advice provided by Andy Whitley (Utilities Manager) 01/04/22 Advice provided by Andrew Whitley (City Energy Manager) on 12/04/2022.

Property Advice: The land sale of the Centre to the Lawn Tennis Association on a long lease will generate an ongoing revenue saving to the Council by the removal of maintenance liabilities. The disposal for a premium, based on an independent valuation, will generate a Capital Receipt for the Highfields Leisure Park Trust. The independent valuation confirms best value. There are restrictions on the use of the Highfields Trust land, to provide ongoing sports and recreation facilities to the residents of Nottingham and this arrangement will secure that. The proposal also safeguards the future Nottingham Tennis Centre offer in Nottingham which is an important tourist and sporting attraction. Advice provided by Christine Read (Property Business Partner) on 29/03/2022.

IT Advice: The IT Service support the proposals contained within this delegated decision. The IT Service has worked with colleagues in Sport, Community & Leisure on the project. Work has focussed on decommissioning IT services in use at the Nottingham Tennis Centre for either re-use or disposal. The IT Projects' Team have supported the project in discussions with the Lawn Tennis Association in regard to ensuring a smooth hand over of the site from an IT perspective. Advice provided by Paul J. Burrows (IT Change, Projects & Strategy Manager) on 31/03/2022.

Building Services Advice: Building Services support the proposals contained within the decision. We have worked with Sport and Leisure colleagues on this project to identify the significant repairs liabilities which post transfer will transfer to the LTA under their lease agreement. Advice provided by Trevor Bone (Property Maintenance Manager) on 25/03/2022.

Signatures

Eunice Campbell-Clark (Portfolio Holder Leisure, Culture and Schools)
SIGNED and Dated: 20/04/2022
Frank Jordan (Corporate Director, Resident Services)
SIGNED and Dated: 20/04/2022

Equality Impact Assessment Form

[screentip-sectionA](#)

1. Document Control

1. Control Details

Title:	Transfer of Nottingham Tennis Centre to Lawn Tennis Association (LTA) through a long term lease and a continued focus on tennis development
Author (assigned to Pentana):	Stephen Chartres
Interim Corporate Director:	John Wileman
Department:	Commercial & Operations
Service Area:	Sport & Leisure
Contact details:	John.wileman@nottinghamcity.gov.uk
Strategic Budget EIA: Y/N	Y
Exempt from publication Y/N	N

2. Document Amendment Record

Version	Author	Date	Approved
1.0	Stephen Chartres	08.03.21	08.03.21
2.0	Stephen Chartres	20.03.22	

3. Contributors/Reviewers

Name	Position	Date
Racheal Webster	Business Development Officer	24.03.22
John Wileman	Head of Sport & Leisure	24.03.22
Nicola Smyth	Service Manager, Sport & Leisure	05.03.22
Debra Sibley	HR Consultant	10.03.22
Rosey Donavan	Equality & Employability Consultant	12.03.21

4. Glossary of Terms

Term	Description
LTA	Lawn Tennis Association
HLPT	Highfields Leisure Park Trust
TUPE	Transfer of Undertakings (Protection of Employment) Regulations

[screentip-sectionB](#)

2. Assessment

1. Brief description of proposal / policy / service being assessed

The proposal is to transfer the operation of the Nottingham Tennis Centre to the Lawn Tennis Association. This is the outcome of negotiations with the LTA, following a budget decision made in March 2020 – to transfer the operation of Nottingham Tennis Centre to an alternative leisure provider, resulting in a saving to the Council of £120,000. The LTA will have full management responsibility of the centre on a long-term lease as well as continue to deliver major national and international tennis events at the centre.

The proposal requires a land transfer agreement with HLPT (who own the land) on a long-term lease. As part of the agreement and to deliver the objectives of the Trust, the LTA will be required to deliver leisure and recreation activity on the site with a focus on Tennis. The lease term for this agreement will be 150 years.

The current number of users of Nottingham Tennis Centre include: Flexible Fitness Members of 684 and Tennis bookings attended in the region of 15,250 pa.

[screentip-sectionC](#)

2. Information used to analyse the effects on equality:

There should be little change to the tennis offer at the Centre as the land transaction agreement requires the LTA to delivery leisure and recreation activity on the land. The LTA will have full responsibility and control over the day-to-day management and policies for the centre. As part of the agreement the fitness offer currently available at the centre will cease.

Current membership information provides the baseline for users of the site. Monitoring of users through membership information and feedback mechanisms will continue and be analysed to assess the impact.

Initial Consultation took place in September 2021. Staff consultation and final communication with citizens, current users will take place in the period March 2022

3. Impacts and Actions:

<u>screeintip-sectionD</u>	Could particularly benefit X	May adversely impact X
People from different ethnic groups.	<input type="checkbox"/>	<input type="checkbox"/>
Men	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Women	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Trans	<input type="checkbox"/>	<input type="checkbox"/>
Disabled people or carers.	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy/ Maternity	<input type="checkbox"/>	<input type="checkbox"/>
People of different faiths/ beliefs and those with none.	<input type="checkbox"/>	<input type="checkbox"/>
Lesbian, gay or bisexual people.	<input type="checkbox"/>	<input type="checkbox"/>
Older	<input type="checkbox"/>	<input type="checkbox"/>
Younger	<input type="checkbox"/>	<input type="checkbox"/>
Other (e.g. marriage/ civil partnership, looked after children, cohesion/ good relations, vulnerable children/ adults). <i>Please underline the group(s) /issue more adversely affected or which benefits.</i>	<input type="checkbox"/>	<input type="checkbox"/>

<p style="text-align: right;">screentip-sectionE</p> <p>How different groups could be affected (Summary of impacts)</p>	<p style="text-align: right;">screentip-sectionF</p> <p>Details of actions to reduce negative or increase positive impact (or why action isn't possible)</p>												
<p>Service Users - minimal impact / no change With this proposal the City Council will have limited control over the management and running of the Centre once transfer has taken place. However, with the existing strong partnership, it is anticipated that the LTA would continue to promote and encourage access to all sections of the community to improve and increase participation in Tennis. The fitness offer at Nottingham Tennis Centre will cease, however existing City Council flexible fitness members will have the opportunity to transfer use to other City Council managed leisure centres and continue to receive the benefits and concessions offered.</p> <p>Staff All staff who currently work at Nottingham Tennis Centre will be impacted by the transfer. Thirteen staff whose roles are directly related to tennis will TUPE transfer across to the new organisation on current terms and conditions in line with regulations and would become employees of the LTA. The other seven fitness staff have been redeployed to other City Council leisure centres or have left the organisation through voluntary or compulsory redundancy.</p> <p>A breakdown of the staff by protected characteristics is as follows:</p> <p>Employees to transfer:</p> <table border="1" data-bbox="115 1169 840 1356"> <thead> <tr> <th>TUPE</th> <th>Count of employees</th> <th>Sum of FTE</th> </tr> </thead> <tbody> <tr> <td>No</td> <td>7</td> <td>0.5</td> </tr> <tr> <td>Yes</td> <td>13</td> <td>10.9</td> </tr> <tr> <td>Grand Total</td> <td>20</td> <td>11.4</td> </tr> </tbody> </table>	TUPE	Count of employees	Sum of FTE	No	7	0.5	Yes	13	10.9	Grand Total	20	11.4	<p>Actions will need to be uploaded on Pentana.</p> <ol style="list-style-type: none"> 1. Continue to build a strong relationship with the LTA as a key partner for delivering community and high profile tennis outcomes for the City 2. Communication will take place with all flexible fitness members who have accessed the Tennis Centre in the last 12 months in order to identify alternative options for accessing the service 3. Various PI's and financial data will be collected on the impact of the transfer for current users of the Tennis Centre to cover the period April 2022 – March 2023 4. Consultation with staff, current fitness members and citizens – March 2022 5. This formal staff consultation has followed the Council's established process. TUPE transfer will be enacted for those staff transferring. The HR Business Partner is engaged to manage the TUPE transfer process and to develop a programme for supporting all staff affected
TUPE	Count of employees	Sum of FTE											
No	7	0.5											
Yes	13	10.9											
Grand Total	20	11.4											

% if these have a protected characteristic (where known)

TUPE	Count of employees	Sum of FTE
NP	12	10.6
P	1	0.3

% male/female

Gender	Count of employees	Sum of FTE
F	3	1.3
M	10	9.6
Grand Total	13	10.9

Employees where alternative employment within the sport and leisure service has been found:

TUPE	Count of employees	Sum of FTE
NP	6	0.4
P	1	0.0
Grand Total	7	0.5

This is the remaining FTE:

JOB TITLE	FTE
ASSISTANT OPERATIONS OFFICER	37.000
ASSISTANT MANAGER	37.000
SUPERVISOR	30.000
TENNIS MANAGER	37.000
CENTRE ATTENDANT	30.000

CLEANER ATTENDANT	37.000		
RECEPTIONIST	10.000		
RECEPTIONIST	24.000		
CLEANER	15.000		
AEROBICS INSTRUCTOR	2.000		
AEROBICS INSTRUCTOR	1.000		
AEROBICS INSTRUCTOR	6.753		
AEROBICS INSTRUCTOR	4.000		
AEROBICS INSTRUCTOR	1.000		
AEROBICS INSTRUCTOR	4.248		
GROUNDS MANAGER	37.000		
SKILLED CRAFTS GROUND PERSON	37.000		
SKILLED CRAFTS GROUND PERSON	37.000		
SKILLED CRAFTS GROUND PERSON	37.000		

4. Outcome(s) of equality impact assessment:

<input checked="" type="checkbox"/>	No major change needed	<input type="checkbox"/>	Adjust the policy/proposal
<input type="checkbox"/>	Adverse impact but continue	<input type="checkbox"/>	Stop and remove the policy/proposal

5. Arrangements for future monitoring of equality impact of this proposal / policy / service:

- Various PI's and financial data will be collected on the impact of the transfer. The continued relationship with the LTA will remain enabling opportunities to track the development of community Tennis participation as part of the LTA offer.
- The LTA have in place and have commitment to their own diversity and inclusion policy

6. Approved by (manager signature) and Date sent to equality team for publishing:

Approving Manager:	Date sent for scrutiny:08/03/2021
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<p>John Wileman Head of Sport, Leisure & Business Management John.wileman@nottinghamcity.gov.uk Tel: 011587 64956 (internal 64956)</p> 	<p>Send document or Link to: equalityanddiversityteam@nottinghamcity.gov.uk</p>
<p>SRO Approval: John Wileman</p>	<p>Date of final approval:08.03.22</p>

<p>Before you send your EIA to the Equality and Community Relations Team for scrutiny, have you:</p> <ol style="list-style-type: none">1. Read the guidance and good practice EIA's http://intranet.nottinghamcity.gov.uk/media/1924/simple-guide-to-eia.doc2. Clearly summarised your proposal/ policy/ service to be assessed.3. Hyperlinked to the appropriate documents.4. Written in clear user-friendly language, free from all jargon (spelling out acronyms).5. Included appropriate data.6. Consulted the relevant groups or citizens or stated clearly, when this is going to happen.7. Clearly cross-referenced your impacts with SMART actions.
