

## Agenda Item 8

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<b>Date</b>	16 <sup>th</sup> June 2015

<b>Subject</b>	<b>Redevelopment of the Meadowbank Football Ground, Meadowbank</b>		
Ward (s) affected	Dorking North and South	Key Decision	Yes

### RECOMMENDATIONS

The Executive is recommended to:

1. Approve the scope of works as set out in this report and agree that Surrey County Football Association (SCFA) be granted the head-lease of football facilities and offices at Meadowbank Football Ground.
2. Approve the acceptance of the Sport England/Lottery Grant.
3. Offer a long term sub-lease for the use of Meadowbank to Dorking Football Club (DFC), enabling the Club to return to its long term home.
4. Delegate the negotiation of the detailed terms of this lease (acceptable to Mole Valley District Council (MVDC) and SCFA) to officers in consultation with the Leader and the Executive Member for Town Centres.
5. Authorise officers to work with SCFA to develop a range of agreements (and potentially further sub-leases) with other adult and junior football clubs in order to maximise utilisation of the Meadowbank facility.

### EXECUTIVE SUMMARY

The purpose of this report is to enable the council to proceed with its planning application for the redevelopment of Meadowbank such that senior football can be played once again from season 2016/17.

The planning application includes development of office facilities. The recommendations in this paper anticipate that these facilities will be occupied by Surrey County Football Association ("SCFA").

This paper regularises the Council's agreement reached with Dorking Football Club ("DFC") in May 2014 to continue that club's use of Meadowbank Football Ground for senior football.

Following the Council's Executive meeting on 31<sup>st</sup> March 2015, this report demonstrates that:

- 1) The redevelopment offers an acceptable return on investment;
- 2) The redevelopment enables provision of a wide range of community leisure facilities in addition to football to enhance the community wellbeing offer in the centre of Dorking.

## **CORPORATE PRIORITIES**

### **Environment - Maintaining the character and environment of Mole Valley**

1. Enable growth in the District by carrying out a full refurbishment of the existing ground and providing an Artificial Grass Pitch (AGP). This will allow maximum use of the facility.
2. The site occupies a unique location in the centre of Dorking and is situated on the edge of the conservation area. The design and aesthetic appearance of the buildings will be sympathetic to the area and blend in with their surroundings.
3. All the new buildings will be constructed to meet the current levels of sustainability under the building regulations and wherever possible there will be a requirement for materials to be sustainably sourced. Further to this, it is intended to incorporate forms of sustainable energy within the design.

### **Prosperity - Delivering quality, value for money services**

1. The existing buildings are not capable of being repaired or economically refurbished. The redevelopment of this site will provide a unique opportunity to give the community a brand new high quality facility for sports and well-being.
2. Approval has already been given by Executive to use a recognised framework agreement to procure the construction contract. This has allowed early engagement with the principal contractor to ensure competitive pricing of the works whilst still achieving the delivery programme within the timescales. The approach will also provide open and clear accounting in order to achieve value for money.
3. The project will provide high quality services to our residents by creating additional income through making better use of property assets.
4. The development will provide a long term investment for MVDC derived from the rental income and income derived from the range of facilities on the site.
5. Incorporating design features to allow future flexibility of use, sustainable design resulting in lower running costs and sustainable energy sources will not only have financial benefits but also be an exemplar project demonstrating MVDC is a leading organisation in sustainable building design.

### **Community Wellbeing - Helping residents to access the services they need**

1. This redevelopment of the Meadowbank Football Ground at Meadowbank is seen as a community based project which will provide a range of facilities and activities across a wide age group. It is MVDC's long term aim to improve both sporting and leisure facilities within the district as well as promoting healthy lifestyles.
2. We are working closely with local football clubs, schools and community groups with whom discussions are ongoing, we will ensure that we understand their requirements and needs and promote football and sport within the community across a broad range of people.
3. A permanent soft play area is a facility currently not available in the Dorking area
4. By developing an AGP and multi-purpose community facility, the facilities will be used and enjoyed by thousands of people every month.

### **1.0 BACKGROUND/INTRODUCTION**

- 1.1 At the Council's Executive on 13<sup>th</sup> January 2015 approval was given for the refurbishment of the Meadowbank Football Ground. Further to this on 31<sup>st</sup> March 2015, the Executive approved the use of the Scape Framework Arrangement as a route for procuring the principal contractor for the construction work. The Minutes of the Executive meeting on 13<sup>th</sup> January 2015 record agreement:
  - (1) That the refurbishment of the Dorking Football Ground, Meadowbank at an estimated cost of £4m (construction costs and professional fees) less any secured grant funding be approved. The scheme includes: the replacement of all football facilities on the site and the provision of a 3G artificial playing surface, all to Football Association standards; and the construction of a new community based wellbeing centre including multi-purpose sports hall, cafeteria, soft play area and meeting rooms.
  - (2) To agree to move forward with the development of a detailed design scheme and tender documentation, submit a full planning application, go to the market and move forward with the construction phase.
  - (3) To actively pursue any grants that may be available to help reduce the cost on the public purse.
  - (4) That the Corporate Head of Service for Assets be authorised to examine the options for operating the facility and make a recommendation to the June 2015 Executive.
- 1.2 The condition of the ground had been a cause for concern for some years and it was closed on Health and Safety grounds in October 2013. The lease was surrendered back to MVDC in May 2014. Initially the future proposal focussed on refurbishing the football facilities and retaining the grass pitch. MVDC entered into discussions with the new owners of Dorking Football Club for them to take a new lease from 2015/16. For many reasons it was decided to develop a

significantly better football facility centred around an artificial grass surface. This surface allows significantly greater use and subsequently the facility is able to benefit a much wider group of residents and helps address the deficit in playing and training facilities in the district. This far more complex facility has inevitably led to the identity of the tenant of the ground being reviewed.

1.3 The design and subsequent scope of works for the newly refurbished Meadowbank Football Ground has evolved over a period of several months as the requirements for the ground and the associated business case became clearer. The Council worked closely with the chosen design team and a full planning application was submitted during the week commencing 20<sup>th</sup> April 2015 (planning application reference MO/2015/0626), with a decision expected in early July. The planning application included the following supporting documentation:

- Topographical and Geotechnical Survey
- Ecology Survey
- Asbestos Demolition Survey
- Traffic Management Report
- Noise and Light Impact Report
- Flood Risk Assessment in co-ordination with the Environment Agency

1.4 As the requirements for the site and business case have become clearer, a number of distinct issues have emerged. These are:

- The proposed scope of works
- The most appropriate tenant of the facility
- Value for money and the return on the capital investment

1.5 **Programme and key dates**

Event	Draft Delivery Dates	
Planning Application Submitted	20 <sup>th</sup> April 2015	
Prepare Tender Documents	May- June 2015	
Agree heads of terms with SCFA and Senior Football Team(s)	26 <sup>th</sup> June 2015	
Out to Tender	1 <sup>st</sup> week July 2015	
Planning Development Control Meeting	1 <sup>st</sup> July 2015	
Sign development agreement with SCFA –	10 <sup>th</sup> July 2015	
Agree and sign Head Lease and Sub Lease (s)	10 <sup>th</sup> July 2015	
Confirm agreement in place with Sport England	10 <sup>th</sup> July 2015	
Advise contractor of Planning (assuming is granted) and legal agreements in place, therefore response for tender is required	10 <sup>th</sup> July 2015	
Tenders Returned	31 <sup>st</sup> July 2015	
Tender price, evaluated, negotiated and accepted	7 <sup>th</sup> August 2015	
Works Start on Site	September 2015	
Final Pitch and Ground Inspection for League approval	June 2016	
Works Completed	June 2016	

SCFA Occupancy	July 2016	
Opening of Community Facilities	July 2016	

### **Proposed Scope of Works**

- 1.6 Details of the proposed works have been submitted with the planning application MO/2015/0626 through MVDC's planning portal. The overall design for the site has been carried out in order to ensure clear physical boundaries between the café and soft play area and the football facilities in order that each element can function independently or together. This ensures flexibility in both the practical day to day running of the site and from the financial business case perspective.

### **Grant**

- 1.7 Sport England have approved the Council's application for £500,000 towards the construction of the football facilities, subject to the Council signing and observing the terms and conditions of the funding agreement. The terms and conditions have been reviewed by Legal Services on behalf of MVDC.

### **Football Facilities**

- 1.8 As part of our successful application to Sport England for lottery funding, we have worked closely with them in developing the design for the football facilities. The proposed facilities have been carefully designed in order to cater for the needs and demand within the local community. Pitch sizes, pitch surfaces and ancillary equipment have all been developed to best serve the users that need them.
- 1.9 The design of the football facilities has also been considered in conjunction with the overall sustainability of the development in order that the facilities can be operated in a way that maximises sporting participation opportunities and club development whilst at the same time ensuring that the wider community can also make full use of the facilities.
- 1.10 The football facilities will provide the following facilities:
- Artificial Grass Pitch (AGP) which will be located about 12m further to the west of the site in order to create additional space adjacent to the Meadowbank Receptions Ground for the soft play, café and well being parts of this development.
  - Spectator Stand located on the half way line and providing seating for 250 spectators.
  - Changing facilities for two 16 person teams and male and female changing rooms for officials.
  - Spectator toilets and independent locker rooms which can be used by schools during the day rather than having to opening up the full changing facilities.
  - Kitchen facilities which will provide beverages and food for the spectators via a serving hatch and through a dumb-waiter to the first floor clubhouse.
  - Clubhouse with a panoramic view of the pitch, meeting rooms, bar area etc.

## **Surrey County Football Association Headquarters**

- 1.11 MVDC was already involved in discussions with Surrey County Football Association (SCFA) as a result of the lease surrender, the future of football at Meadowbank and the Sport England/Lottery grant. SCFA approached MVDC in late 2014 expressing their interest in relocating their headquarters to Meadowbank Football Ground and in being MVDC tenant of the football facilities. Like many other County FA's they were looking to further develop their role in promoting local football and they saw this as an opportunity.
- 1.12 Following SCFA's approach, MVDC has worked closely with SCFA in developing a brief for the requirements of their new headquarters within the proposed scheme. The design which has been agreed with SCFA and gone forward as part of the current planning application encompasses their requirements for a modern and efficient office building for some 24 staff and includes the following:
- Spacious ground floor reception area with three meeting rooms which can be opened up to accommodate over 50 people. Ground floor kitchen area and toilets.
  - The first floor provides individual offices for senior managers and a larger open plan office for staff, including those to manage and operate the pitch and football facilities, staff toilets and a shower area.
  - A staff breakout area is also provided on the first floor which leads onto an open terrace overlooking Box Hill.

### **Soft Play, Cafe and community facilities**

- 1.13 The community engagement activity carried out by MVDC in the summer of 2014 to understand what facilities the public would like to see provided within Meadowbank received nearly 500 responses. This information helped formulate the design and business case for the site. One of the key elements related to the provision of a café with 86% of respondents believing that it would improve the experience at Meadowbank.
- 1.14 These facilities will include:
- A soft play area capable of accommodating up to 150 children along with space for private parties and a seating area for parents.
  - Multi-point café which is strategically located to provide a serving point for the Soft Play Area, Indoor Café and Outdoor Terraced Café.
  - Space for internal multi-functional meeting rooms
  - External toilet facilities for the use of Meadowbank Recreation Ground.
- 1.15 The design of all the new facilities on the site will fully comply with Part M (Access to and Use of Buildings) of the building regulations and will ensure reasonable provision is made for people to gain access to the building and use its facilities.

## Pre-Tender Cost Estimate

1.16 The pre tender estimate for the works is as follows:

	£000
Football Facilities	1,962
Café, Soft Play Area, toilets and community space	2,153
	<u>4,115</u>
Less Sport England/Lottery Grant	( 500)
Total Mole Valley Capital Costs	<u>3,615</u>
Surrey County FA Headquarters	875
Total Project Costs	4,490

N.B. these costs include all costs including construction, professional fees and contingencies

## Tenant of the Facility

1.17 It is vital in this project to identify the most appropriate tenant to manage the football facilities to the satisfaction of both MVDC and the local football community. Given the level of proposed investment of public funds in the development, a key consideration for MVDC is to ensure that the tenant is able to commit to a rent which is viable and sustainable for that organisation, offers an acceptable return on capital, coupled with a strong financial covenant, and who will be a responsible and knowledgeable party in assuming the management role of this facility.

1.18 The options identified were:

- MVDC
- Leisure providers
- Football club or clubs
- SCFA

1.19 MVDC currently contracts out the running of its leisure centres, Dorking Sports Centre and Leatherhead Leisure Centre. Consequently it does not have the specialist resources or the expertise to manage such a facility. Whilst MVDC could acquire the expertise needed and the appropriate resources could be employed, this would take time and as a new venture, it is likely that the revenue streams would take a longer time to accrue to MVDC which would reduce MVDCs' return on its investment.

1.20 In order to determine whether the level of interest from leisure providers in taking on a lease of the football facilities, preliminary soft-market testing discussions were held with the Council's current leisure service provider in Dorking, who indicated that there was limited scope for any surplus/profit-share to allow MVDC to make a financial return. Unlike Dorking Sports Centre and Leatherhead Leisure Centre, Meadowbank Football Ground is not an established centre with its own pre-existing revenue streams.

- 1.21 For a facility of this size and complexity it is unlikely that it could be operated by a football club or football clubs. They generally depend on one or a few key individuals for their success and offer a lower covenant as tenants. Past experience at Meadowbank highlights the difficulties local football clubs can have in operating and maintaining their facilities and therefore caution should be exercised before offering this complex facility to football clubs.
- 1.22 Consequently, it is proposed to offer SCFA a head lease with a maximum term of 25 years of the football facilities comprised in the development. The reasons for this include;
- SCFA bring an additional income stream of approximately £75,000 to the project. This is set out in Appendix 1 to this report. This will enhance the overall return to local taxpayers.
  - SCFA has a well established reputation in football.
  - It has substantial reserves to guarantee stability and consistency and a well established and multi-skilled board of directors.
  - SCFA would have a long term interest in the overall site as a result of SCFA paying for and relocating their regional head quarters to the site.
  - It offers a dedicated and knowledgeable senior staff on the site, rather than managing from a distance, and who will manage access by local football teams fairly, ensuring the facility is “shared” amongst the clubs.
  - SCFA propose to make this ground the focus for football training, coaching, and refereeing across Surrey.
  - SCFA Cup Finals for all age groups will be played at the ground towards the end of the season; it will become the centre for Surrey football.
  - A major focus of SCFA is to encourage football to be played across all ages and to re-engage people into the sport. Football sessions and courses will be run including such events as walking football for older participants, “Get Fit” football open to everyone and “MASH UP” which focuses on children who have become disengaged with sport
- 1.23 It should be noted that the existing planning application going before Development Control Committee in July includes the new headquarters for SCFA. If the Executive decide not appoint SCFA as the tenant, SCFA would not relocate their headquarters to the site. The scheme’s design would be significantly changed and a new full planning application would be required.
- 1.24 It is recommended that SCFA become the tenant of the football facility at Meadowbank. In addition it is also recommended that MVDC approve SCFA moving its headquarters to the ground (in accordance with the current planning application). The cost of constructing the offices will be fully paid for by SCFA. It will guarantee SCFA’s commitment to the project, ensuring its success and in addition paying a ground rent to MVDC of £20,000 for the ground lease.



## **Proposed Business Case**

- 1.25 The case has been separated for this exercise into two facilities, namely the football pitch / club house and the leisure/wellbeing building which includes the café, soft play area, community space and toilets.
- 1.26 The business case assumes that SCFA are the tenant of the football facilities.
- 1.27 In order to estimate the income that can be generated by the football section of the facility modelling of usage was undertaken. Providing that the facility is fully booked there would be little difference in the business case whether there was one senior team playing at the ground as opposed to two. The income flows assume that SCFA is managing the facility as MVDC's tenant, as recommended above.

## **The Football Facility**

- 1.28 The projected income from the football facility clearly depends upon the use of the available slots to hire/lease. There are 172 football teams playing within a 10 mile radius of Meadowbank that form part of several multi team football clubs. MVDC has consulted with all the local youth teams in the district and the results confirmed that there is significant demand for an Artificial Grass Pitch (AGP) in the area as a training venue. We have also liaised with local senior schools, one of which has confirmed their intent to use the facility during school hours, although the details have yet to be confirmed.
- 1.29 The facility will be used almost constantly at peak times i.e. after school and at the weekend other than Saturday afternoons (when traditionally only senior clubs play). The market rate that is charged for AGP has been benchmarked at £90 to £120 per hour depending upon peak and non peak times and regularity of the booking (as advised by SCFA).
- 1.30 We have assumed different scenarios and projected the likely income. In all instances it is assumed that SCFA is our tenant as recommended above. Whatever surplus the facility delivers, it will be necessary to share this with SCFA in an appropriate manner through a turnover rent mechanism in the lease. No decision over the how the share will be calculated has yet been made but it is likely to be around a 70:30 (MV/SCFA) split. The calculations are based on the net cost figure of £1.462m for the football facility.
- 1.31 However key assumptions made include:
- £35k sinking fund to renew the pitch surface every 7 years
  - No income has been included for the bar/clubhouse as further discussions are required regarding this element of the scheme.
  - The charging structure has assumed an hourly rate of £90 for peak time slots for local chartered standard clubs.
- 1.32 With senior, youth and ladies teams, schools and the activities promoted by SCFA it is anticipated that a surplus after expenses teams of nearly £100,000pa would be achieved after two years. MVDCs share of nearly £70,000 would represent a return of 4.8%. The income figures should improve over the coming

years as development programmes become more established. This confirms that the football facilities provide a reasonable return for MVDC on its investment.

### **Soft Play Area Café and WC Facility**

- 1.33 The projected income from this part of the development depends upon the ability to attract children and parents. The income will depend upon a combination of population numbers (toddler, infant and primary aged children); the cost of entry to the facility and how many and how good other soft play areas are in the area.
- 1.34 In calculating the likely income it has been assumed that children living within 10 minutes drive time will visit the site the most and those up to 20 minutes will visit less due to distance and also the proximity of other play and play facilities. Assuming a medium risk analysis the projected income is estimated in the table below;

Ticket price	Soft play	Café	Surplus after expenses	60:40 Split	% return	70:30 split	% return
£3.75	£210,754	£76,360	£129,970	£77,982	3.6%	£90,979	4.2%
£4.50	£267,267	£101,813	£201,755	£121,053	5.6%	£141,229	6.6%

- 1.35 It is the strong recommendation and the soft play operators that the café and soft play are managed by one party. At this stage MVDC has not entered into detailed negotiation however we would envisage that there would be a split of profits with MVDC retaining the greater share of the projected surplus. No decision has been taken over the operation of the soft play and café and it is our intent to market the opportunity in the near future. For the purpose of this report we have assumed both a 70:30 and 60:40 split and the return is based upon soft play costs of £2,153m. MVDC will get between 60% and 70% of the surplus.
- 1.36 It is MVDC's intent that any lease granted for the soft play facility will include performance measures and would initially at least be for a short period (3 to 5 years), ensuring that action can be taken easily if the performance of the operator generates the appropriate income and provides value for money. Subsequently the cost of the soft play equipment and kitchen fit out has been assumed in the project cost.
- 1.37 It should be noted that there has been no allocation made to the income of the café as a result of business from the recreation ground. Therefore any income generated from this area would only improve the income and value for money. The birthday party income has been assumed at the same level as that currently experienced in Leatherhead Leisure Centre.

### **Total Returns**

- 1.38 The return on the soft play, café and WC development is estimated in the table. These figures assume that SCFA manages the football project and that the ground is used every Saturday by senior teams and a mix of youth, ladies, senior and community uses at other times. SCFA will manage the facility and look to promote and develop the use of the ground.

1.39

	Football facility	Soft play facility
Development cost	£1,462,000	£2,153,435
Assumed surplus after expenses	£ 99,943	£165,862
Estimated split MVDC (avg)	£69,960	£107,810
Return on capital	4.8%	5.0%
Total cost	£3,615,435	
Total estimated income	£177,770	
<b>Total return</b>	<b>4.9%</b>	

Overall this demonstrates that the redevelopment of the Meadowbank ground, together with recommended operating model provided an acceptable return to MVDC on its investment.

### **Legal Implications**

#### **Lease Arrangements**

- 1.40 Section 123 of the Local Government Act 1972 permits the Council (MVDC) to dispose of land in any manner it wishes (s.123(1)), subject to obtaining the best consideration that can be reasonably obtained (s.123(2)), unless it obtains the consent of the Secretary of State or MVDC considers that the disposal at less than best consideration will help MVDC secure the promotion or improvement of the economic, social or environmental well-being of its area and the amount of any undervalue does not exceed £2,000,000 (Circular 06/03: Local Government Act 1972 General Disposal Consent (England) 2003).
- 1.41 The grant of a lease is considered a disposal, and therefore the arrangement reached between SCFA and MVDC (which in turn would be influenced by the arrangements reached between SCFA and any sub-tenants) needs to comply with s.123(2) best consideration obligation or satisfy the criteria set out in Circular 06/03.
- 1.42 If any disposal is at an undervalue, MVDC is effectively providing a subsidy, and the nature and the amount of the subsidy must comply with the State aid rules, particularly if there is no element of competition when granting the leases. A realistic valuation of the interest following the advice in the Technical Appendix to the Circular 06/03 will need to be followed so that MVDC can demonstrate that it has adopted a consistent approach to decisions about land disposals and has acted in a way which is reasonable and with due regard to its fiduciary duty towards its local taxpayers.
- 1.43 If a sub-lease is offered to DFC at a subsidy, this will need to be considered in the context of the existing financial support offered to DFC to ensure that any state aid does not exceed the de minimis amounts permitted by regulations.
- 1.44 Material considerations as with all lease arrangements are the strength of the

tenant's covenant and their ability to pay the agreed rent (which may be supported through rent deposits and guarantees (personal e.g. directors, or third party), although these are not always palatable to the prospective tenants, and to comply with their other general tenant obligations. The most contentious of these is the tenant's ability to comply with any repairing obligation.

- 1.45 Provided that the terms of the agreement relate to and concern the usual landlord and tenant obligations, such as the landlord's right of entry, the permitted use of the property, the obligations in relation to maintenance and repair, rent and other incidental charges such as service charges and/or insurance, and the conditions for sub-letting and for returning the ground to MVDC, such agreements are not classified as service concessions and are not required to be procured in any particular way. It does give the tenant more freedom to use the facility subject only to the permitted use clause in the lease (and planning and other constraints), and does not permit MVDC to prescribe what services should be offered by the tenant to the general public, other than by reference to the permitted use.
- 1.46 Service concessions differ from leases in that a concession is a contract under which the Council procures services but transfers the risk of the success of those services to the service provider, which in turn is reflected in the amount of any management fee (if any) payable to MVDC. A lease is granting a property right in the facility, subject to general conditions, with exclusive possession, at a rent and for a certain term.
- 1.47 When the 2014 Concessions Directive is transposed into UK law (by April 2016 at the latest), service concessions will be regulated; currently, their procurement is potentially subject to the general EU treaty principles of transparency (for example, an obligation to advertise), equal treatment and non-discrimination. Leases are expressly excluded by the 2014 Directive from being classified as a service concession.

### **Public Sector Equality Duty**

- 1.48 Given the proposed breadth of activities proposed to be hosted by SCFA at the facility, were it to be granted a head-lease, this would appear to promote MVDC's compliance with the public sector equality duty (PSED). This requires MVDC to have due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (s.149 (1) (b) Equality Act 2010).
- 1.49 This involves having due regard to the needs to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it and
  - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

## **Sport England Grant Offer and Lottery Funding Agreement**

- 1.50 The terms of the draft Lottery Funding Agreement require MVDC to obtain the approval of Sport England to the proposed lease arrangements (such approval not to be unreasonably withheld or delayed). Separately, the draft Lottery Funding Agreement stipulates that any agreement where a third party operates the facility on behalf of MVDC (as would be the case under the terms of the proposed lease) would in any event need Sport England consent. Compliance with this requirement would be secured by way of a restriction on MVDC's registered title.
- 1.51 The draft Lottery Funding Agreement is drafted on the basis that the new football facilities at Meadowbank Football are to be available for public use no later than 1 September 2016.
- 1.52 Finally, any variation to the business case put forward to support MVDC's application to Sport England for grant funding would also need to be disclosed to Sport England.

## **Dorking Football Club (DFC)**

- 1.53 On 16<sup>th</sup> May 2014 MVDC and Dorking Football Club (1880) CIC Ltd (DFC 1880) reached an agreement, subject to contract and securing planning permission, under which MVDC intended to develop and refurbish the ground to meet the requirements of FA National League System Step 5 national ground grading category F and to lease the grounds to the new management team and owners of Dorking Football Club. This was set out in non-legally binding Heads of Terms signed on behalf of both MVDC and by DFC 1880 which were clearly stated (a) not to constitute or imply a commitment to enter into a lease or agreement to lease (b) nor represent that such a lease or agreement to lease would be offered and (c) that the terms were subject to contract, obtaining all internal and statutory approvals and consents (amongst other things).
- 1.54 This agreement was part of the overall agreement reached with DFC 1880 for DFC 1880 to take over the management and running of Dorking Football Club. Whilst the Heads of Terms are not legally binding on MVDC, DFC 1880 could seek to argue that it had a legitimate expectation that it would be granted a lease and relied on that in its decision to take on the management of Dorking Football Club and entering into ground share agreements with Horley Town.
- 1.55 However, given the statements in the Heads of Terms, and provided MVDC acts reasonably and any decision reached is not so unfair as to amount to an abuse of power, 'it is unlikely that MVDC's conduct would be held to be a breach of legitimate expectation, particularly as it still wishes to offer DFC 1880 a sub-lease, and given that there would appear to be a strong public interest in creating greater opportunities to participate in sport, together with the benefit of the additional café, soft play area and associated facilities available to residents'.

## **Soft Play and Café Arrangements**

- 1.56 As the Options recommended to the Executive only relate to the proposed leases in respect of the football facilities, this section does not deal in any great detail with the other consequential legal implications of procuring an operator for the café and soft play area. This is likely to constitute a concession contract rather than a straightforward lease arrangement and will need to be undertaken in accordance with MVDC's contract standing orders and in accordance with all applicable procurement legislation.

## **Programme and key dates**

- 1.57 The draft delivery dates for the publication by Wilmott Dixon of the invitation to tender to its supply chain and for return of tenders will need to be confirmed with Wilmott Dixon, if they haven't been confirmed to date, to ensure they conform with the terms of the Scape Framework and allow the sub-contractors sufficient time to prepare their tender responses.

## **2.0 CORPORATE IMPLICATIONS**

### **Monitoring Officer Commentary**

- 2.1 The Monitoring Officer confirms that all relevant legal implications have been taken into account.

### **S151 Officer Commentary**

- 2.2 The income and expenditure figures in the report are based on the assumptions listed and estimates of usage and take-up. The s151 Officer confirms that all relevant financial implications and risks have been taken into account in compiling these figures.

### **Risk Implications**

- 2.3 There is a risk register for this project which is regularly reviewed and updated by the project team. This ensures that risks are identified at an early stage and mitigation strategies are put in place.
1. There is a risk that the already run down site will continue to deteriorate and become unsafe. Whilst the site has been made secure, there is an ever increasing Health and Safety risk to anyone entering the ground which can only be fully removed by the demolition of the existing buildings and the future redevelopment of the site.
  2. If SCFA are not to be the tenant of the football facilities, they would not need their office facilities relocated to Meadowbank. In this scenario the scheme would need to be revised and a further planning application would need to be submitted leading to delays in the construction and delivery of the project.
  3. In the event that planning approval is not granted for this project, the design work that will have been undertaken along with associated consultant's fees will be abortive work. In mitigation, initial meetings have taken place with

MVDC's development control department which have proved to be constructive.

4. As with any procurement process there is a risk that the price tendered will not be in line with expectations. In order to mitigate this risk, early discussions have taken place with the proposed contractor and a detailed pre-tender estimate will be undertaken for the works with the option to undertake a bill of reduction should the tenders exceed the budget.
5. There is a risk that the assumption which have been made for the usage of the new facilities will not be realised and therefore have a negative effect on the business case. This has been mitigated by carrying out both research and a number of surveys in order to understand the demand and usage which can be expected for the new development.
6. There is a risk that MVDC choose the less financially viable options and that the return is therefore less than it should be.
7. There is a risk of delay to the return of football to Meadowbank if the leases and other legal agreements are not completed by 10<sup>th</sup> July 2015.

### **Equalities Implications**

- 2.4 The equalities implications for users of the new development will be fully considered as we further develop our operational use for the site. Where appropriate, these requirements will be incorporated into the schedule of works and specification for inclusion in the tender documents. In particular all the new facilities on the site will fully comply with Part M (Access to and Use of Buildings) of the building regulations and ensure reasonable provision is made for people to gain access to the building and use its facilities

### **Employment Issues**

- 2.5 There are no employment considerations associated with the recommended options however this report states that there would be a need to acquire expertise and resource in the event of an alternative decision being made as such experience does not already exist in house or through our contractors.

### **Sustainability Issues**

- 2.6 The report which was approved by the Executive on the 13<sup>th</sup> January 2015 provided the details of our strategy for providing sustainable buildings as part of the refurbishment with confirmation that the tender documents will stipulate that all materials will be sustainably sourced (where possible) in line with BREEAM principles.
- 2.7 There are opportunities to go beyond minimum building standards when starting with a new design and construction therefore, the new buildings will be more energy efficient than any existing buildings on the site. Mole Valley's planning policies would also require MVDC to reduce the carbon emissions of the new build by at least 10% through the use of on-site renewables.
- 2.8 The team is actively looking at ways in which we can introduce elements of renewable energy into the proposed development.

## **Communications**

- 2.9 There is considerable interest in the proposals for the refurbishment of the Meadowbank Football Ground and as a result active and ongoing communication and engagement with the local football clubs, schools and wider community will continue.
- 2.10 A presentation on the proposed development was recently given to both the local and Executive Members with future presentation planned for local clubs and community groups. Two dates have also been arranged when members of the design team will be able to meet residents who live close to the ground in order to answer any questions and concerns they may have.

## **BACKGROUND PAPERS**

None



**Surrey County Football Association Income Attributable to them**

<b><u>Activity</u></b>	<b><u>Time Slots</u></b>	<b><u>Income per annum</u></b>
Academy 5 days College based program. 32 youths central government funded	2 hours per day for 30 weeks 2 hour match on Wednesdays 30 weeks	£18,000 £3,600
Tuesday Walking Football For over 50s	1 hour every week 5 hour league combining all 9 groups once a month	£900 £1,050
Lunch time league for adults 5 a side	1 hour a week	£900
Skills team 5-11 year olds skills centre, linking primary schools delivery to regular training and then into local clubs	2 hours a week	£1,800
Mash Up 14-16 year olds who have disengaged in football approached via local school	1 hour a week	£900
Just play Evening Adult turn up and play session	1 hour a week	£900
Wednesday Get Fit through football – Female only back to football offer	1 hour a week	£900
Saturday Flexi league Adult casual league	2 hours a week	£3,600
Just play Saturday Adults not playing in a formal team	1 hour a week	£900
5-a-side league	Thursday 1 hour a week Saturday 2 hours a week	£10,800
Other income including training courses referee excluding birthday parties		£10,220
Ground rent		£20,000
<b>Total</b>		<b>£74,470</b>