
Subject: CHARITY OF FREDERICK FRANKLIN FOR A PUBLIC PARK (CHARITY NO. 1092171) – MARKE WOOD RECREATION GROUND: LICENSE OF PITCHES

Meeting and Date: Cabinet – 3 June 2024

Report of: Roger Walton, Strategic Director (Place and Environment)

Portfolio Holder: Executive - Charity

Decision Type: Non-Key - Charity

Classification: Unrestricted

Purpose of the report: To reach a decision as to whether a licence can be granted to Cinque Ports Football Club for the Marke Wood football pitches.

- Recommendations:**
1. That grant of a licence of the Marke Wood football pitches to Cinque Ports Football Club for a term of 2 years be approved, to enable an application to the Football Foundation Grass Pitch Maintenance Fund.
 2. That the Strategic Director (Place and Environment) be authorised to agree the detailed terms of the licence.
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1. Summary

A proposal is presented with the aim of increasing both the quality and usage of football pitches. Cabinet, acting as trustees for the Charity of Fredrick Franklin, are required to decide whether it is in the best interests of the charity to permit a proposed licence for the football pitches to Cinque Ports Football Club. A Market Value licence fee has been calculated as £2,500 per annum (4 pitches x £625). A subsequent report will present proposals for a new lease of the pavilion.

2. Introduction and Background

2.1 On 3 February 2020 Cabinet agreed to the grant of a two-year lease to Cinque Ports FC of the kitchen, club room and one of the three team changing rooms within Marke Wood Pavilion at a market rent of £1,056. The remaining two team changing rooms, referee changing room and three shower rooms were excluded from the lease to ensure that other clubs could still make pitch bookings. The lease started in October 2020, but a complete season was lost due to restrictions on team games imposed during Covid. Therefore, rent that Cinque Ports Football Club had already paid was credited to the following season. The tenants have been holding over under the terms of the original lease since then.

2.2 Historically the site has hosted up to five pitches, but currently only two pitches are provided. In early spring the Council mows pitches at Marke Wood on a 5-day regime, this is reduced to a 10-day regime through the growing season, with further ad hoc mowing as required. Additional mowing may be undertaken when needed during the winter if the pitches are dry enough to access. One of the pitches benefits from an enhanced maintenance regime, funded and implemented by Cinque Ports FC. This has given rise to an informal arrangement by which the Council only accepts bookings from Cinque Ports FC on the enhanced pitch. Nonetheless, an inspection of the

pitches in Marke Wood carried out in November 2023 on behalf of the Kent Football Association rated their quality as poor.

- 2.3 The Kent Football Association recommended various measures for improving pitch quality such as over-seeding during early spring, deep decompaction and deep slitting to improve soil structure and use of top dressing. With budgets under pressure, competing priorities and little income being generated from football bookings at this site, it would be challenging for such improvements to be implemented through the Council's grounds maintenance programme.
- 2.4 In total 36 pitch bookings were made at Marke Wood during 2023; of these 23 were made by Cinque Ports Football club, while 13 were booked by other clubs. Under the current arrangements, when Cinque Ports FC uses the facilities, the club sets up pitches and opens the changing rooms. When a different club makes the pitch booking the Council must pay a casual attendant to undertake these tasks. However, it has proved difficult to recruit a casual attendant, and Cinque Ports has frequently supported with these tasks.
- 2.5 The recreation ground and pavilion in Marke Wood have been under-utilised in recent years, even though the most recent study (Dover District Playing Pitch Strategy Assessment Report February 2019) identified a shortfall of 0.5 match equivalent sessions per week in the Deal Analysis Area. Anecdotal evidence, including requests received by the Council, suggest that demand for pitch bookings increased during the winter of 2023/24. This may be due, in part, to wet weather conditions reducing the resilience of grass pitches and a lack of additional pitches to share the wear and tear.

3. **Proposals**

- 3.1 The Football Foundation Grass Pitch Maintenance Fund provides football clubs with a grant of up to £48,640 over six years. To be eligible, clubs must have a minimum of two years tenure and they must commit to investing £24,338. Cinque Ports FC has been invited to apply by the Football Foundation and has therefore requested the Council enters into a two-year licence for the pitches at Marke Wood, beginning on the date of this meeting. The Council would also be required as part of the application to state that there is no reason currently known why the licence could not be renewed for a further two years following the original two-year term.
- 3.2 If a licence is agreed and Cinque Ports FC is awarded a grant, the club intends to increase the number of pitches at Marke Wood from two to four. Under the terms of the proposed licence, the club would be responsible for managing bookings at the site and would be required to make pitches available for booking by other clubs at a price equivalent to the Council's published football pitch hire charges. The Council would also require Cinque Ports FC to share data about the external bookings. The club would be responsible for tidying litter that arises from their use of the site.
- 3.3 It is envisaged that the Council will continue to undertake gang mowing across the whole site, while Cinque Ports FC will mark out pitches and implement additional works to the pitches, including end of season renovations. The Football Foundation has reviewed the pitch layouts presented in Appendix 1 and confirmed they meet the requirements of the Grass Pitch Maintenance Fund. The proposed licence area is shown in Appendix 2; this is large enough to accommodate all the proposed layouts and would allow Cinque Ports FC to change goal locations, reducing wear and tear of the pitches.
- 3.4 It is proposed that the Strategic Director (Place and Environment) be given delegated power to finalise the precise details of the licence.

3.5 A further report will be presented in due course proposing that Cinque Ports FC should be offered a new lease for a further 2-year term for the pavilion, with an expanded footprint to rationalise arrangements for management of the changing facilities. Under these proposed arrangements the club would be required to offer changing facilities to external clubs when they make pitch bookings. In that report it will be proposed that the licence be reissued to align with the term of the pavilion lease.

4. **Requirements of Cabinet in their Capacity as Trustees**

4.1 According to the Charity Commission's website the aims and activities of the Frederick Franklin Charity are:

"Provides sport and recreational facilities for the general public/mankind in the form of building, facilities and open space".

In addition it also lists the objective of the charity as: "The object of the charity is, in the interests of social welfare, the provision of, or to assist in the provision of the facilities for recreation or other leisure time occupation to improve the conditions of life for the inhabitants of the area of benefit without distinction of political, religious or other opinions.

4.2 Trustees have a duty to act solely in the best interest of the Charity. Trustees are required to act reasonably and prudently in all matters relating to the charity and to act with the same degree of care and skill as a prudent person or business would exercise in the management of his or her own affairs or those of someone else for whom they had responsibility.

4.3 The Cabinet, acting as Trustees, are required to decide which of the options is in the best interest of the Charity.

4.4 The Charity is governed by a scheme dated 22nd April 2002. The scheme provides general authority for the trustees to let the land provided the restrictions on disposal given in the Charities Act 2011 are adhered to unless the disposal is excepted from those restrictions. The trustees are provided with further powers in the Charities Act 2011 (s117) to dispose of land but again must ensure they have considered any restrictions.

4.5 The Grant of a Licence to occupy does not create an interest in land and is therefore not considered a disposition of land for the purposes of the Charity Act 2011. The Trustees should, however, still determine if the Grant of the Licence is in the best interest of the charity.

5. **Identification of Options**

5.1 Option 1 - To offer Cinque Ports FC a licence for the pitches to run two years from the Trustees' decision (i.e. June 2024 to June 2026).

5.2 Option 2 Not to offer Cinque Ports FC a licence.

6. **Evaluation of Options**

6.1 Option 1 is the preferred option as it will promote the aims of the Charity by enabling an enhancement of the sport and recreational facilities.

6.2 Option 2 is not preferred because Marke Wood park would not benefit from continued volunteer input and the Council is not eligible to bid for Football Foundation pitch improvement grants. Therefore, the football pitches would likely remain under-utilised.

7. **Resource Implications**

- 7.1 The proposed licence would enable the Charity of Frederick Franklin to benefit from sustained volunteer input, with consequent improvements to the park.

8. **Climate Change and Environmental Implications**

- 8.1 The scope of proposals presented within this report provide limited opportunities to directly impact climate change. Outdoor sports pitches contribute towards achieving green infrastructure objectives by attracting open space users to suitably managed sites, away from more sensitive biodiverse areas. More widely within the park opportunities are being explored to identify areas that are suitable for reduced mowing.

9. **Corporate Implications**

- 9.1 Comment from the Director of Finance (linked to the MTFP): Accountancy has been consulted and has no further comments to add. (LS)
- 9.2 Comment from the Solicitor to the Council: The Solicitor to the Council has been consulted in the preparation of this report and has no further comments to make (BD).
- 9.3 Comment from the Equalities Officer: This report seeking to offer Cinque Ports FC a new lease to Marke Wood Pavilion and a licence for the pitches to run two years from the Trustees' decision, does not specifically highlight any equality implications. In discharging their duties members are required to comply with the public sector equality duty as set out in Section 149 of the Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/section/149>
- 9.4 Other Officers (as appropriate):

10. **Appendices**

Appendix 1 – Three example pitch layouts

Appendix 2 – Proposed license area

Background Papers

Conveyance documents and the previous lease.

Football Foundation Grass Pitch Maintenance Fund application documents.

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