

## **CABINET MEETING: 22 JUNE 2023**

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### **TENNIS IN PARKS**

### **CULTURE, PARKS & EVENTS (COUNCILLOR JENNIFER BURKE)**

### **AGENDA ITEM: 3**

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#### **Reason for this Report**

1. To agree an investment programme proposal from Tennis Wales which will see the refurbishment of circa 30 courts across 6 park sites in Cardiff and the introduction of the Club Spark entry membership and management scheme.
2. To secure and protect the future of tennis courts and tennis participation for future generations aligned to the objectives in the Cardiff Physical Activity and Sport Strategy.

#### **Background**

3. Park venues are vital in providing accessible and affordable opportunities for communities to take up the game of tennis and get active, no matter of age, gender, background, ability, or disability. Insight and research from Tennis Wales, the national governing body for tennis in Wales, shows that park venues are particularly important in driving improved female participation and access to tennis for those from lower socio-economic groups.
4. Many of the current Council tennis court facilities require some form of investment or refurbishment work, to ensure that courts are at a standard that can provide opportunities to sustainably grow participation. Moreover, insight shows that one of the biggest barriers to participation is finding, booking, and accessing a court, group activity, or finding someone to play with.
5. The ability to invest in our parks tennis court stock has and will continue to be constrained owing to the competing demands within the Council's capital programme and it is therefore important to take advantage of opportunities for securing external funding when they arise. Without external investment, there is a likelihood that our stock of tennis courts will become unsafe for use resulting in closure and reduced opportunities for participation.

6. Cabinet approved the Physical Activity and Sport strategy in January 2022 and this proposal aligns closely to the 4 key areas of the strategy, namely Active Environments, Active Societies, Active People and Active Systems. The proposal also delivers against the Welsh Government policy, Health and Wellbeing of Future Generations Act 2015.
7. The ambition is to use the latest Tennis Wales insight and technology to improve the customer journey, grow tennis participation and create safe places to play by reducing vandalism, anti-social behavior and misuse which can arise in the absence of investment and use.
8. Heath Park courts benefitted from capital investment from the Lawn Tennis Association (LTA) via Tennis Wales, the national governing bodies for tennis in the UK. The grant from them enabled the modernisation of the court surface, floodlights and gate entry membership.
9. The outcome of the investment at Heath Park converted a site that was in poor condition and hidden with very limited tennis activity to an open, vibrant tennis site with a significant increase in tennis participation, coaching, schools' activity, social competition, and general interest in the park. The benefits paper for Heath Park produced by Tennis Wales is attached at **Appendix 1** demonstrating over 900 members now playing regularly including the first LGBTQIA+ club in Wales.
10. Tennis Wales has approached the Council seeking to invest in 6 Council owned park tennis court sites across the city to improve the quality of the courts and to introduce their Club Spark management system. It is anticipated that the total level of investment in the 6 sites will be in the region of £750,000. To secure this funding via the Lawn Tennis Association and the Department for Culture, Media and Sport (DCMS), Tennis Wales is required to be the operator of the courts including management and maintenance for a minimum term of 10 years.
11. As governing body for the sport in Wales, Tennis Wales works to grow the sport in Wales. Their Club Spark membership scheme enables income generation through a low-cost, pay to play policy. All proceeds from the introduction of the scheme across the 6 sites would be used to pay for the management of the sites and the provision of associated tennis programmes, with any surpluses fully ring-fenced to be invested back into the maintenance of the sites. This will reduce the need for investment in the sites by the Council in future years. The Club Spark system will not become operational at any site until the tennis courts to be covered by the Club Spark system have been refurbished.
12. There will not be a requirement for a lease or disposal of public open space, as a licence to operate and a Management Agreement will be sufficient to secure the funding and formalise the partnership with Tennis Wales for the long term.
13. The Tennis Wales proposal involves:
  - Investing financially into the long-term security of park tennis courts, resurfacing, repainting and repairing existing facilities.

- Introducing online booking software so local people can find a court, book and pay online.
  - Installing gate access technology to facilitate people playing and remotely manage courts across the city, creating a safe space to play, potentially reducing anti-social behaviour and misuse.
  - Creating local opportunities to get involved in tennis through affordable and free tennis programmes and activities run by local coaches, promoting general play to open tennis up in Cardiff.
14. Many of Cardiff's Parks are held in Trust, either through recent agreements with Fields in Trust or through historical Trust organisations and arrangements and/or have restrictive covenants that limit their use. The Council has recently undertaken a review of the way in which all of the city's parks were gifted (including those with relevant tennis facilities). Where sites are subject to Trust arrangements, the Council will need to first of all determine whether the Tennis Wales proposal aligns with the articles of the Trust, and where the Council is the appointed Trustee, a separate decision will need to be taken by Cabinet in their capacity as Trustee to approve inclusion in the scheme.
15. At this stage, the Council can commit to the following sites as they are free of any Trust issues and do not require any separate Trust approval.
- Victoria Park
  - Rhynmey Hill Garden
  - Llandaff Fields
16. The Council will also commit to working with Tennis Wales to identify an additional 3 sites and as required will seek separate Trust approval before committing to their inclusion in the scheme.
17. In February 2023, a stage one application was submitted to the LTA to secure an "in principle" agreement for a funding package to meet their deadline schedule.

### **Insight & Data**

18. Tennis Wales regularly develops insight and data to deliver their strategy of opening up tennis across Wales. Their data and insight highlights are as follows:
- Across Wales, there are over 100 public parks with 300 plus tennis courts. The aim is to invest in public park tennis courts to ensure they are available for local people to enjoy for the years ahead.
  - During 2020 and 2021, more than 130,000 adults played tennis at least once in Wales, with 40% of these participants playing in a public park.
  - Park tennis courts are a superb environment for people to play. Data shows an increased number of women and girls playing tennis in parks, and people

from a wide range of socio-economic groups. Data also shows most people playing tennis in a park tend to walk or cycle to participate, helping reduce the carbon footprint of the sport.

- Insight also shows that people often feel park tennis courts are poorly maintained and that they do not know how to book and pay for the courts. The Tennis Wales model would see investment to create a safe, secure and accessible facility with online booking to make it easy for people to get on a court.

## Issues

19. Tennis courts (excluding Heath Park) are currently free to use. At Heath Park the partnership with Tennis Wales has demonstrated the benefits of the investment approach through the membership charging model. Historically, standard fees and charges were applied at a time when the Council employed Games Attendants at each Outdoor Sport and Leisure venue. These Games Attendants were responsible for collecting hire fees for courts and equipment.
20. In the financial year 2013/14 the budget was removed, and a rationalisation of services was introduced resulting in the demise of the Games Attendants and the introduction of free to use tennis courts.
21. Ensuring courts can be protected in the long term, through a sustainable model, is key, and a condition of securing external funding. Therefore, the introduction of a hire fee model like other sports and facilities is critical.
22. As a condition of grant, the LTA require the following:
  - Procurement framework - commitment to utilise the LTA's own procurement framework to deliver the project.
  - Online booking – LTA insight shows that a key barrier to play for park users is the lack of, or an unclear booking journey. Therefore, the Council must commit to utilising the online booking system "Club Spark", provided through the LTA, to enable local residents to easily book courts and activities online.
  - Establishing an operating model – "Tennis Wales in the park" to manage the sites with an agreement in place with a local coach or coaching operator to provide coaching services. This is to ensure the sites are promoted to increase awareness and participation.
  - Free tennis – across the park network, a commitment to there being a free tennis offer. The purpose of this funding criteria is to ensure tennis remains accessible and affordable to all residents. This could be a weekly free tennis session. "Tennis for Free", a charity that works closely with the LTA, provide a package of support (including coach costs and equipment) to deliver a free, weekly coach-led session.

- *Recreational competition offers* – sites receiving investment are required to run LTA Local Tennis Leagues which supports players to keep playing and connect with other local players.

### **Tennis Court Operation**

23. Establishing management and responsibility for tennis courts and or coaching programmes across the city, to manage the customer journey and drive sinking fund income is an approach that an increasing number of Local Authorities are adopting. The main benefits of this approach are reducing Local Authority staff resources, digital technology support, marketing support and guaranteed income through a coaching programme.
24. Tennis Wales will support Cardiff Council to operate the proposed six park sites across Cardiff and develop a model which caters for each site and their local communities.

### **Gate Access and online booking technology**

25. Club Spark is the online booking platform which connects to the gate access system. This allows the player to secure the facilities creating a safe place to play which potentially reduces vandalism, allows the customer to book courts online and provides insight into usage and demographics of the players using the facility. The Club Spark website provides an online platform to promote our courts and playing offer to the local community.

### **Pricing Policy**

26. Heath Park has three paid options designed for families, students, and casual users, in addition to a free offer:
  - **Family Pass - £39.00 per annum** - Any family member in the household can book & play for 12 months, with as much tennis as they wish to play included in this fee. This equates to only £3.25 per month, per family and is cheaper than playing other traditional sports such as Netball, Football, Hockey, Rugby, Badminton, Squash etc...
  - **Student Pass - £19.00 per annum** - Any student can book & play for 12 months, with as much tennis as they wish to play included.
  - **Pay & Play - £4.50 per court, per hour** - Simply book online, pay for the hour and give tennis a try. (This is for players who do not have or wish to have a Pass)
  - **Free** - A calendar of free trial opportunities, open days and free coaching throughout the year.

## **Procurement of Works**

27. The funding provided by the Lawn Tennis Association (LTA) requires the use of LTA approved contractors to undertake the works as a condition of grant. Given that the grant will be paid to Cardiff Council via Tennis Wales, the Council will therefore be required to appoint an LTA approved contractor.
28. The Council's procurement team has reviewed the requirement and are satisfied that the LTA has properly procured approved contractors to a framework arrangement that the Council is able to utilise.
29. Furthermore, given that the Council will be required to procure the works it is likely that the Council will not be able to recover VAT on the works. This will need to be taken into account when specifying the works to ensure the total cost of works does not exceed the grant.

## **Financial Sustainability**

30. The maintenance of the 6 court sites in Cardiff would require a sinking fund of £1,200 per court per annum, with an additional £600 per court per annum for floodlit courts. The sinking fund will be generated through income and retained and managed by Tennis Wales.
31. The grant funding available through LTA is via the Department for Culture, Media and Sport and is on a short delivery timeline determined by UK Government. A condition of grant is for the investment to be made in the 2023/24 financial year.

## **Reason for Recommendations**

32. To agree a Licence/Management Agreement with Tennis Wales to operate six sites to attract external investment, secure long-term management, maintenance and increase participation.
33. To agree the introduction of the 'Club Spark' scheme and associated pricing policy and incentives.

## **Financial Implications**

34. The report seeks agreement to a proposal from Tennis Wales to secure investment in six tennis sites currently managed by Cardiff Council.
35. It should be noted that a stage one application was submitted to the LTA in February 2023 to secure an "in principle" agreement funding package, estimated to be in the region of £750,000.
36. The proposal from Tennis Wales would be by way of an interim management agreement. The related funding package would be used to fund annual maintenance costs alongside the creation of a sinking fund to be managed by Tennis Wales for reinvestment into tennis development and facilities and to deal with future maintenance needs, including resurfacing. A membership scheme

would be set up with a low-cost pay to play policy allowing for the generation of income and for any surplus to be retained within the sinking fund. Tennis Wales are proposing to take on the lease for six sites in total as set out in the body of the report with the sites operated via an online payment and booking system.

37. The property implications note it is anticipated that initially the Council will grant an interim management agreement which will be replaced by an appropriate future lease or licence agreement for each facility dependent on the exact legal and title status. It is proposed that investment will be prioritised at the unencumbered sites whilst any outstanding Trust/covenant related matters are resolved. Alternative locations may need to be identified if the Trust/covenant matters prove prohibitive. A further report is planned to be brought back to Cabinet to seek approval for the inclusion of any other sites in the scheme.
38. Prior to the finalisation of any interim agreements between the parties, any VAT, trust and covenant implications of the proposed arrangements must be clearly identified and resolved with no financial detriment to the Council.
39. The report and appendices do not identify any additional Council revenue or capital investment requirements and any future budget implications are assumed to be managed within existing resources.

#### **Legal Implications (including Equality Impact Assessment where appropriate)**

40. Under section 19 of the Local Government Act (Miscellaneous Provisions) act 1976 the Council has power to provide such recreational facilities as it seems fit.
41. The Council has a general power of competence pursuant to Part 2 of the Local Government and Elections (Wales) Act 2021 which is a broad power enabling an authority to do anything an individual person may do.
42. The proposal in this report is to enter into a licence or management or operation agreement for extension tennis court facilities at the recreation grounds noted in this report. Such an arrangement will allow the contracting party to manage the facility on behalf of the Council but does not transfer ownership nor grant exclusive possession. Should the Council intend at a later date to dispose of, or let the land, the Council will need to comply with the procedures set out in s.123 of the Local Government Act 1972 as to a disposal of public open space, and/or consider the requirements of the Playing Fields (Community Involvement in Disposal Decisions)(Wales) Regulations 2015 as it applies to a disposal of any tennis courts as a playing pitch prior to proceeding.
43. It is also noted that some of the proposed recreational grounds have or may possibly have charitable trust implications that will require further investigation and consideration. It is noted that this report only approves the inclusion of recreation grounds that are within the Council ownership as a statutory authority. Any additional recreation grounds referred to in this report that are or possibly may upon further due diligence be subject to charitable trusts that are being considered to benefit from these proposals, will need to be reported and determined separately so that it is clear that the authority is making a decision in

those matters as a trustee. Relevant legal advice in its role as trustee can be provided in that report when the matter is considered further.

## Equality

44. The decision about these recommendations has to be made in the context of the Council's public sector equality duties. The Council also has to satisfy its public sector duties under the Equality Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties, Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. The Protected characteristics are: age, gender reassignment, sex, race – including ethnic or national origin, colour or nationality, disability, pregnancy and maternity, marriage and civil partnership, sexual orientation, religion or belief – including lack of belief.
45. When taking strategic decisions, the Council also has a statutory duty to have due regard to the need to reduce inequalities of outcome resulting from socio-economic disadvantage ('the Socio-Economic Duty' imposed under section 1 of the Equality Act 2010). In considering this, the Council must take into account the statutory guidance issued by the Welsh Ministers ([WG42004 A More Equal Wales The Socio-economic Duty Equality Act 2010 \(gov.wales\)](#)) and must be able to demonstrate how it has discharged its duty.
46. An Equalities Impact Assessment aims to identify the equalities implications of the proposed decision, including inequalities arising from socio-economic disadvantage, and due regard should be given to the outcomes of the Equalities Impact Assessment [annexed to this report in **Appendix 2**].
47. The Well-Being of Future Generations (Wales) Act 2015 ("the Act") places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales – a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
48. In discharging its duties under the Act, the Council has set and published wellbeing objectives designed to maximise its contribution to achieving the national wellbeing goals. The wellbeing objectives are set out in Cardiff's Corporate Plan 2018-21: <http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf>
49. The wellbeing duty also requires the Council to act in accordance with 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without comprising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
  - Look to the long-term.



- Focus on prevention by understanding the root causes of problems.
- Deliver an integrates approach to achieving the 7 national well-being goals
- Work in collaboration with others to find shared sustainable solutions
- Involve people from all sections of the community in the decisions which affect them

50. The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link below: <http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

#### Welsh Language

51. The Council has to be mindful of the Welsh Language (Wales) Measure 2011 and the Welsh Language Standards when making any policy decisions and consider the impact upon the Welsh language, the report and Equality Impact Assessment deals with all these obligations. The Council has to consider the Well-being of Future Guidance (Wales) Act 2015 and how this strategy may improve the social, economic, environmental and cultural well-being of Wales.

#### **Property Implications**

52. Both the Council and Tennis Wales are required to document the occupation of the tennis areas within the parks. Ordinarily, this would be undertaken by way of a Lease or Licence agreement. However, as noted, recently the Council have commenced a review of the way in which the parks were gifted to the Council, including those identified in this report, as there are a number of potential title restrictions and Trust situations which could inhibit granting a lease or licence immediately.
53. Accordingly, it is anticipated that the Council will grant a management agreement for the operation of the tennis courts to be finalised with Legal Services.
54. There are no further specific property implications in respect of the Tennis in Parks report. Where there are future property negotiations required to deliver the proposals, they will be done so in accordance with the Council's Asset Management process and in consultation with Strategic Estates and relevant service areas.

#### **Human Resources Implications**

55. There are no HR implications directly arising from this report.

## RECOMMENDATIONS

Cabinet is recommended to:

- 1) Approve the proposed agreement with Tennis Wales as set out in this report.
- 2) Approve the three tennis court sites identified in this report to be included in the agreement.
- 3) Delegate authority to the Director of Economic Development in consultation with the Cabinet Member for Culture, Parks and Events and the Legal Officer to:
  - a. identify a further three tennis court sites to be included in the agreement subject to appropriate due diligence and governance relating to any Trust arrangements and/or restrictive covenants;
  - b. enter into Licence Agreements/Management Agreements as required for the sites included in the scheme.
- 4) Note further reports will need to be presented back to Cabinet as Trustee to approve the inclusion of any sites subject to Charitable Trusts.

<b>SENIOR RESPONSIBLE OFFICER</b>	<b>Neil Hanratty</b> Director of Economic Development
	16 June 2023

The following appendices are attached to this report:

Appendix 1: Tennis at Heath Park

Appendix 2: Equality Impact Assessment