CABINET

PROPOSED DISPOSAL OF ASSET No 192
MERTON PLAYING FIELDS, OLDHAM

Report of Councillor Jabbar, Cabinet Member for Finance and HR

30th June 2014

Officer Contact: Emma Alexander, Executive Director, Commercial Services

Purpose of Report

1.0 The purpose of this report is to seek authority to proceed with the grant of a lease of land, identified as being Public Open Space, to Hulme Grammar Schools.

Recommendation

2.0 It is recommended that the grant of a lease to Oldham Hulme Grammar Schools be approved.
2.1 It is recommended that the objections to the proposed disposal be noted.
PROPOSED DISPOSAL OF ASSET NO 192 LAND AT MERTON PLAYING FIELDS, OLDHAM

REPORT OF EXECUTIVE DIRECTOR, COMMERCIAL SERVICES

1.0 PURPOSE OF REPORT

1.1 The purpose of this report is to seek authority to grant a lease of Merton Playing Fields to the Oldham Hulme Grammar Schools.

1.2 Executive member approval to advertise the proposed disposal of Public Open Space was granted on 16th September 2013. Consequent to that approval the proposal was advertised and terms provisionally agreed for the grant of a lease.

1.3 A decision is now required as to whether to proceed with the grant of a lease having regard to the comments received as a result of the advertising process.

2.0 RECOMMENDATION

2.1 It is recommended that the grant of a lease to the Oldham Hulme Grammar Schools be approved.

2.2 It is further recommended that the objections to the proposed disposal be noted.

3.0 INTRODUCTION OR BACKGROUND

3.1 Under its continuing commitment to good Asset Management Planning, the Council seeks to make best use of its land and property assets. As part of that commitment, the Council looks to utilise the drive and resources of local organisations interested in areas of land that can be declared surplus to the Council’s requirements regarding direct service delivery. It is intended to consider disposal of such sites to organisations that are able to productively use the site to enhanced community benefit whilst enabling the Council to concentrate scarce resources elsewhere.

3.2 In this case the Council has received a request from an established local school, Oldham Hulme Grammar Schools, who operate from nearby land and premises, and who wish to occupy this Council owned asset to enhance their sporting provision. The potential disposal did, however need to be assessed under the Council’s adopted Protocol on Disposal of Open Space.

3.3 The site under consideration is regarded as public open space and consequently under the Local Government Act 1972, the Council was required to advertise the intention to dispose of the land in a local newspaper for two consecutive weeks, and to consider any objections to the disposal which may be made in reaching a final decision on the proposal.

3.4 As a result of the advertisement one letter of objection has been received from the secretary to a local Association and a further letter from a College Avenue resident. These letters are reproduced in appendix I.

4.0 CURRENT POSITION

4.1 The land is currently Public Open Space with access available either through gates or gaps in the perimeter fencing. The site has previously been used for sporting and recreational
purposes by the nearby St Augustine’s Roman Catholic School and was until recently maintained by the Council’s Parks and Open Spaces team. St Augustine’s has now been demolished following the completion of the new Blessed John Henry Newman Academy on Broadway and the pitches are no longer required in connection with the Academy. The Parks and Open Spaces team have ceased maintaining the site as the budget to support this activity is no longer available following the closure of St Augustine’s.

4.2 The occupation by Oldham Hulme Grammar Schools would be by way of a lease and subject to restriction to sporting and recreational use ensuring that the existing use continues. The school would be able to invest in the site and manage it from their local base in the community with the intention of maintaining and improving the asset.

4.3 The Council does not need to retain direct management responsibility of the site for service delivery and therefore authority is now sought to enter into a lease of the land, shown edged red upon the plan to the rear of this report, subject to agreement as to terms and conditions.

5.0 OPTIONS / ALTERNATIVES

5.1 (i) Do nothing, however this would lead to the Council remaining responsible for the maintenance of this land and the loss of an opportunity to reduce maintenance costs and obligations whilst using the resources of a well established local school as an opportunity to provide an improved facility. If this option was chosen the Council would also have to identify a budget for maintenance of the site.

(ii) Proceed with the grant of a lease to the school. This will transfer responsibility for maintenance to a third party, the school, who will need to maintain satisfactorily to allow for sporting and recreational use.

6.0 PREFERRED OPTION

6.1 The preferred option is to grant a lease of the land to the Oldham Hulme Grammar Schools subject to agreement as to terms and conditions.

7.0 COOPERATIVE AGENDA

7.1 The efficient use and improvement of the Council’s property portfolio is fully aligned with the Council’s Cooperative agenda. In addition including a local school in the maintenance of the facility and in its future development and improvement is in keeping with the Cooperative agenda.

8.0 CONSULTATION

8.1 The advertising of the proposed disposals of public open space has allowed for full community consultation and two letters have been received commenting on the proposed disposal, one from a local Association and a second from a College Avenue resident. These comments are reproduced in Appendix 1. The proposed lease to the Oldham Hulme Grammar School would retain the sporting and recreational use by a school and there would therefore be no change of use. The land would not be used for residential or other forms of commercial development.

8.3 Ward Members have been advised of the proposal via the District Co-ordinators and have commented that they would be in agreement with the land being used for sporting and recreational purposes, including by an established local school subject to the points raised in this report being adhered to. If, after due consideration of any
objections, the transfer of use to Hulme Grammar School is to be considered they would be in agreement as long as:

The current usage is protected.
The whole of the land is maintained by the new users to a high standard.
There are increased opportunities for community use of the facilities.
Access for members of the public to use it remains as it is currently
The lease is such that no user would be able to build on the land.
The lease is such that the Council would get first refusal on the land being transferred back to the Council if the new users no longer required the land for sports and recreational purposes.
The lease includes a rent, which would allow for the Council to claim back the land if the new users cease to exist as a going concern.
The lease is such that the potential for this land to be redeveloped for housing is expressly excluded.

9.0 FINANCIAL IMPLICATIONS

9.1 Capital Comments
See closed report

9.2 Revenue Implications
See closed report

10.0 HUMAN RESOURCES’ COMMENTS

10.1 None.

11.0 LEGAL SERVICES’ COMMENTS

11.1 The Council’s Land and Property Protocols states that decisions to dispose of public open space must be made in two stages. The first stage report is to recommend the disposal of the land in principle subject to the advertising of the proposed disposal and allowing time for objections.

The second stage report will make recommendations for the disposal or retention of the land having regard to any objections which have been received to the proposed disposal. This report is a second stage report.

11.2 By virtue of section 123 of the Local Government Act 1972 the Council has the necessary statutory powers to dispose of its land. On a disposal of its land by way of lease the Council are under a statutory obligation to obtain the open market value and the best consideration that can reasonably be obtained unless there is Secretary of States consent to the disposal. In this case the best consideration requirement is not being met as there is the potential for the land to obtain planning permission for a residential development. By virtue of the Local Government Act 1972; General Disposal Consent (England) 2003 the Secretary of State has given a general consent to local authorities to dispose of land if the difference between the unrestricted value of the land and the consideration for the disposal does not exceed £2 million and where the purpose for which the land is being disposed of is likely to contribute towards the achievement of the promotion or improvement of one or more of the following economic well-being, social well-being and/or environmental well-being in respect of the
whole or any part of its area or all or any persons resident or present in its area which would
on the face of it appear to satisfy all those requirements. The Council could therefore
reasonably justify a disposal on those grounds. However as the grant of the lease to the
school with its restrictions to use the land for sporting and recreational use is considered to
be at the open market value the question of disposal at less than best consideration does not
have to be considered in this instance.

11.3 In discharging the Councils duties of rationality and reasonableness together with its
fiduciary duties to its taxpayers, the Council will also need to be satisfied that the proposed
transaction of the lease to the school represents overall value for money and if an
undervalue is given it will secure social benefits to the community.

11.4 In terms of State Aid implications the grant of the lease to the school would not constitute aid
to the school.

11.5 The exemption from publication is justified on the category stated in the report

11.5 The Council’s Land and Property Protocols have been observed (Peter Oliver)

12.0 IT IMPLICATIONS

12.1 None.

13.0 PROPERTY IMPLICATIONS

13.1 It is also necessary to consider whether the proposal represents an under valuation by
reference to the best value the Council could achieve if the land was not to be leased subject
to a restrictive covenant limiting the use to sporting and recreational purposes. The only
realistic alternative, subject to planning, would be residential development.

13.2 Policy 23 of the Local Plan “Open Spaces and Sports” would apply to this site. Policy 23
states that the council will “protect, promote and enhance existing open space in the
Borough, and will seek to secure new and improved well designed open spaces where
appropriate”. In addition any application for an alternative use of the site would need to be
considered by Sport England who would be expected to object strongly to the loss of
sporting provision. A successful application would require an applicant to demonstrate that
the loss of open space is outweighed by the provision of additional housing (as the only
viable alternative development use). Alternative replacement open space provision would
need to be made or existing facilities upgraded to mitigate the loss. The site was also
allocated as recreational open space on the former Unitary Development Plan.

13.3 The conditions needed to make development feasible are considered unlikely to be met as it
is not considered likely that replacement sites or sufficient upgrades to remaining open
space could be undertaken to mitigate the loss. There have been recent reductions in open
space as a result of building the new academy on Hollins Road.

13.4 As the possibility of development cannot be totally discounted, although for reasons stated
above it is considered unlikely, the under value that is the difference in value between the
residential site value and the value for sporting and recreational purposes needs to be
assessed and considered in the decision making process.
13.1 The remaining property implications are covered fully in this report. (Malcolm Simister)

14.0 REGENERATION COMMENTS

14.1 The Strategic Regeneration & Development Team supports the proposals.

15.0 ENVIRONMENTAL AND HEALTH AND SAFETY IMPLICATIONS

15.1 The proposal would not result in the change of use of the site as any lease granted would include restrictive covenants to ensure the continued sporting and recreational use of the site in conjunction with the school use, essentially the same use as when in regular use by pupils of St Augustine’s. Provision of better sporting facility could lead to health benefits for sports participants and pupils at the school. Management of the site by a local school could lead to improved maintenance and better facilities with consequent environmental and health and safety improvements.

16.0 PLANNING COMMENTS

16.1 The Head of Planning and Infrastructure has been consulted and has no comments to make on this report.

17.0 COMMUNITY COHESION IMPLICATIONS (INCLUDING CRIME AND DISORDER IMPLICATIONS IN ACCORDANCE WITH SECTION 17 OF THE ACT)

17.1 Management by a local school should lead to a better community focused use of the site and perhaps to greater community focus and involvement. This should have a positive impact on Community cohesion.

18.0 KEY DECISION – YES
CMCL -07-14

18.0 BACKGROUND PAPERS
19.0 The background papers are available in the appendices
The secretary to a local association has commented as follows:

“I went to have a look at the POS that you intend to dispose of adjacent to Merton Street and Heron Street, Oldham today and took many photos to remind me of importance of this open space high up in the built up area of Hollins and Coppice, Oldham.

The two tennis courts NE of Heron Street were in poor condition and the fencing around the courts were missing. There is reasonable evidence of white lines depicting four separate courts. It looks as though no tennis has been played here for some time although a football kick about can be played here.

There is a hard surface NW of Merton Street which looks in reasonable condition. There were no goalposts or pitches marked out on the two large grassy plateaus but I understand that local teams practice on the fields.

Although the area is fenced off there are six pedestrian openings and one or two wide locked gates for maintenance traffic. There is good evidence at each entrance that the gates are used by people from a fairly wide area. There are no definitive footpaths across the site, but 2 bus stops on Heron Street. There are number of short footpath links from the different levels that are well used.

The two large grassed areas are in good condition, except on my visit they were very wet due to the huge amount of rain we have seen of late. There was no evidence of goal posts or line markings.

I see from the 2006 UDP the land was Recreational Open Space and now in the LDF map the land is coloured white and therefore appears to have no protection. How convenient to deallocate it. This deallocation also includes the two pitches higher up off Frederick Street and are coloured white. They belong to Hulme Grammer School and are in good condition having been recently mowed.

I am therefore objecting to the Council trying to dispose of this extremely large area of open space with its informal status to raise monies for unreasonable spending elsewhere in the Boro’.

You will no doubt be aware of my critical comments re the loss of £450,000 of affordable housing monies form wealthy Housebuilders recently and the loss of this open space is very important to local people and should be retained.

I made comments re a land trust in my objection letter regarding the Huddersfield Road application and perhaps you see another similar situation here. However if you do go down that line, I would object most strongly if the general public were not allowed any access as they are at the moment.

There are no school playing fields in this part of Oldham, although Copster Park is about 2/3 km away, you would have to cross the very busy Hollins Road. There used to be POS on Hollins Road but this has now been fenced off for the new Academy. There also used to be POS off Chapel Road but this has been fenced off for an OAFC training pitch.
I have been reading an article from Sport England that suggests that 2.36 people live in a dwelling that requires access to sporting facilities. This facility provides reasonable sports facilities in this area so this Green space fits nicely into the Sports England criteria and be of benefit to a great number of people. Perhaps 5,000 or so people.

If you look at the former PPG 17 (Sports and Recreation) it also states that people, should have access to open space within certain short walking distances and this is one that fits that criteria. It is plonked right down in the urban sprawl of Hollins and Coppice.

So in conclusion I would like object to the disposal of this huge green lung with two large football pitches, a hard surfaced pitch and two tennis courts. It should be kept open for the locals around Hollins and Coppice.”

A letter has been received from a College Avenue resident commenting as follows.

“This land has been used as playing fields by local authority schools for over fifty years but recently this usage has no longer been necessary. However, the area has also been used for the same period of time for community leisure use, by children in the evenings and especially during the holidays, and by adults and families, either for purposes of informal recreation, occasional formal matches between community teams, and for other purposes such as dog walking or general exercise and recreation.

If this land was to be swallowed up in housing or other development, this community recreational use would be lost, and the nearest open spaces would then be reduced to Copster Park and Werneth Park, both only accessible via busy main roads, and at some distance from many of the properties whose occupants now use Merton Playing Fields.

If the land were to be purchased by a local private grammar school for the recreational use of their pupils that would of course be acceptable, though if this were to be the case I hope it would be possible for that school to ensure the area continued to be available for community use at times other than those when it would be used by the school.

On the other hand, if the land were sold to a building developer I would object most strongly to the disposal of this land other than for continuing recreational use, and would see it as a highly disturbing deterioration in public amenity for people in this local area, and especially for the children. I therefore hope that the Council can take reasonable steps to ensure that this area of land continues to be available for community recreational use as it has been to generations of children in the past.”