

FOR PUBLICATION

REPLACEMENT OF QUEEN'S PARK SPORTS CENTRE **APPROPRIATION OF LAND AT QUEEN'S PARK ANNEXE (R320)**

MEETING: 1. CABINET
 2. EXECUTIVE MEMBER LEISURE, CULTURE
 AND TOURISM

DATE: 1. 10 JUNE, 2014
 2. 3 JUNE, 2014

REPORT BY: HEAD OF ENVIRONMENT

WARD: ALL

COMMUNITY
ASSEMBLY: ALL

KEY DECISION
REFERENCE (IF
APPLICABLE): KD 370

FOR PUBLICATION

BACKGROUND PAPERS FOR PUBLIC REPORTS:

TITLE: LOCATION:

1.0 PURPOSE OF REPORT

- 1.1 To seek authority for the appropriation of land at Queen's Park Annexe for the building of the proposed new sports centre to relocate and replace the existing Queen's Park Sports Centre.

2.0 RECOMMENDATIONS

- 2.1 That Cabinet determines whether the land shown at Appendix A is no longer required for the purposes of a public pleasure ground under the Public Health Act 1875.

Subject to that determination:

- 2.2 That Cabinet considers whether to appropriate the land shown at Appendix A for planning purposes.
- 2.3 That Cabinet indicates an intention to appropriate the land shown at Appendix A pursuant to Section 122 of the Local Government Act 1972.
- 2.4 That Cabinet authorises consultation on the intention to appropriate the land in accordance with Section 122 of the Local Government Act 1972.
- 2.5 That a further report be prepared and that Cabinet considers any representations received and make its final decision on whether or not to appropriate the land.

3.0 BACKGROUND

- 3.1 On 29 December 2013 Cabinet considered the feasibility study for Queen's Park Sports Centre and resolved (Minute 0187) that a new sports centre is constructed to replace the existing Queen's Park Sports Centre and that in principle, the Queen's Park Annexe be selected as the preferred site for the new sports centre.
- 3.2 As part of the feasibility study the Council considered a number of other sites for the construction of the new centre including the existing site. However the existing site was not considered suitable for a number of reasons including service disruption and loss of income whilst any new centre was being constructed, that the site was in a Grade II* listed park and that any new build would have to be of impeccable design so as not to dominate the park and adversely affect its character, and the existing site has previously flooded. Other sites were considered but these were not suitable for a variety of reasons, e.g. not in the Council's ownership, access difficult by public transport etc.
- 3.3 Members will be aware that the new centre will be constructed as a dual use facility, with Chesterfield College contributing £2.5m towards the capital cost and making an annual revenue contribution in return for use of the new facility.

- 3.4 Following a procurement exercise using the Cabinet Office's Government Procurement Services (GPS) framework in May 2013 the Council procured a project management and design team led by Deloitte as project managers, together with B3 Architects, B3 Building Services, Furness Partnership (structural engineers) and Appleyard and Trew (cost consultants) and Ambient Energy and Environment (BREEAM assessor).
- 3.5 Extensive consultation on the proposed new sports centre has been undertaken with the public, user groups, equalities group, NGBs (National Governing Bodies) and wider stakeholders on the design and facility mix of the new centre and the potential future development of the Annexe site.
- 3.6 Work has taken place for the procurement of a construction company to build the new centre, and it is anticipated that the building of the centre will commence in summer/autumn 2014, with construction taking around 12 months to complete.

4.0 QUEEN'S PARK ANNEXE

- 4.1 Queen's Park Annexe was conveyed to the predecessor Council on 24 May 1905 by Edward Anthony Jefferson Maynard for the purpose of being used as a public pleasure ground within the meaning of the Public Health Act 1875.
- 4.2 The 1905 Conveyance also contained a covenant providing that 'no building shall be erected on the land hereby except such as may be necessary or convenient for the enjoyment of such land as a pleasure ground'. Similar covenants apply to the adjacent Queen's Park and the implications of the covenants had to be considered when the existing sports centre was originally constructed in 1968 and when the dry side extension was added in 1984.
- 4.3 At the time that the Council acquired the Annexe concerns were raised about the cost of laying out the site but a bowling green was opened in 1925 and tennis courts were also constructed. No significant further investment took place until the early 1960's when the athletic track and changing pavilion were added.
- 4.4 The existing Annexe site has tennis courts, a bowling green, a redgra athletics track and a football pitch and changing pavilion.

5.0 LEGAL POSITION

- 5.1 Advice has been taken from Queen's Counsel regarding the Covenant that applies to Queen's Park Annexe.
- 5.2 Section 122 of the Local Government Act 1972 gives statutory powers to a local authority to appropriate land for any purpose for which the authority are authorised to acquire land by agreement. The appropriation of land refers to a process whereby a local authority alters its purpose for holding that land, provided the land is no longer required for its original purpose.
- 5.3 The effect of appropriation would be to free the land from any trust arising by virtue of it being held in trust for the enjoyment of the public for the purposes of Section 164 of the Public Health Act 1875.
- 5.4 Section 237 of the Town and Country Planning Act 1990 provides that where a local authority has appropriated land for planning purposes the development of the land may override any third party rights enjoyed over the land, provided the development is done in accordance with planning permission. However, statutory compensation may be payable if appropriate.
- 5.5 The relevant powers under which the Council can acquire land for planning purposes are now contained in sections 226(1) and 227 of the Town and Country Planning Act 1990 and can be applied when either:
- (a) the authority considers that the appropriation will facilitate the carrying out or development, re-development or improvement on or in relation to the land; or
 - (b) the land is required for a purpose which it is necessary to achieve in the interests of the proper planning of the area

In this report appropriation is considered under Section 226(1)(a) above.

- 5.6 A local authority must not exercise the power under paragraph (1)(a) of s.226 unless they think that the development, re-development or improvement is likely to contribute to the achievement of any one or more of the following objects:
- (a) the promotion or improvement of the economic well-being of their area;

- (b) the promotion or improvement of the social well-being of their area;
- (c) the promotion or improvement of the environmental well-being of their area.

This is known as the application of the Section 226(1A) test.

5.7 Before it can decide whether or not to appropriate the land to planning purposes, therefore, the Council must consider the following issues.

Whether:

- the land is no longer required for the purpose for which it is currently held (the s.122 test);
- the appropriation will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land
- it will contribute to the promotion of the economic, social and/or environmental well being of the area (the s.226(1A) test);
- it accords with the provisions of the development plan, and whether planning permission is in force and any other considerations that would be material to the determination of a planning application for development of the land.

5.8 In the event that Cabinet agrees that the land should be appropriated, as the land is public open space the Council must advertise its intention to appropriate over two consecutive weeks in a newspaper circulating in the local area (Section 122 of the Local Government Act 1972).

5.9 Cabinet would then consider any representations received before reaching any final decision on appropriation.

6.0 Area of Land to be Appropriated

6.1 This is shown on the plan (Appendix A) to this report edged bold black and is an area of 19,050m². The area includes all of the former athletics track, football pitch and the associated terracing and changing rooms.

6.2 The remainder of the site (including the tennis courts and bowling green) would remain as a public pleasure ground and would be excluded from the area of land to be appropriated. This is an area of 28,060m².

6.3 Whilst the area which is to be appropriated to planning uses is larger than the footprint of the proposed centre, it is within the planning application area and is required in order to provide flexibility in terms of working areas during construction. Furthermore, in recognition of the overall case for providing a new sport centre in Chesterfield, Sport England has also recently invited the Council to bid for additional funding from its Strategic Facilities Fund. This would be to expand the proposed facilities (from a 6 lane swimming pool and 6 court sports hall to and 8 lane swimming pool and 8 court sports hall) which if successful will further enhance the impact of the Annexe site in delivering new activities and levels of community involvement in sport, physical activity and health. Significantly, it will also enable the Council to fully meet future demand for swimming pools and sports halls in Chesterfield. The area shown on the Plan would be sufficient to accommodate the proposed expansion of the centre including car parking.

7.0 BASIS FOR APPROPRIATION

The land is no longer needed for the purpose for which the land is held

7.1 The land was originally acquired as a public pleasure ground and is no longer required for this purpose.

7.2 The Heritage Impact Assessment for the proposed new sports centre (attached as Appendix B) identifies that the Annexe site whilst historically associated with nearby Queen's Park, has never been integrated into the Park owing to:

- Boythorpe Avenue which separates Queen's Park and the Annexe;
- The design of Queen's Park itself which, unlike many historic parks, was never designed to be integrated with its surroundings and in particular is separated from the Annexe site by a high masonry wall along its southern boundary;
- Topography of the Annexe which is significantly higher than the park.

7.3 Queen's Park is the Borough's principal park and as members will be aware is located adjacently across Boythorpe Avenue from Queen's Park Annexe. It is a heritage listed park that in August 2013 was upgraded to a Grade II* park in the Register of Parks and Gardens of Special Historic Interest.

- 7.4 In 2003/4 Queen's Park underwent a significant £4m refurbishment with the aid of Heritage Lottery Funding to improve the cricket pavilion, add the café and children's play area at North Lodge and make other improvements. The quality of Queen's Park has been further recognised since 2005 with the award of Green Flag status.
- 7.5 Queen's Park provides not only a suitable pleasure ground but is a pleasure ground of much higher quality given the facilities available, e.g. children's playing equipment, café, feature lake etc.
- 7.6 Since the Council acquired the Annexe site it has never been developed as a park, but has been used for utilitarian sporting activities, including athletics and football. The topography of the Annexe site and in particular the steep embankment to the southern side of the site means that its use as a public pleasure ground has always been limited. At the present time the site is largely unused with the exception of seasonal use of the tennis courts and bowling green.
- 7.7 The Annexe site includes a disused athletics track and terracing, a bowling green, tennis courts and a football pitch. The bowling green and tennis courts are unaffected by the proposed new sports centre and will remain as such, and are not proposed for appropriation. The principal features of the Annexe site that will be affected by the land appropriation are the terracing, changing rooms, disused athletics track and single football pitch.
- 7.8 The athletics track was constructed in the late 1960's and has not been used for several years. It is in an unsuitable condition with the track being rutted and suffering from 'ponding' due to poor drainage. Chesterfield Athletics Club stopped using the track in 2007 and relocated to Tupton Hall School to make use of the more modern athletics facilities including a modern synthetic running track. Due to the fact that there was no longer any regular use of the athletics facilities and due to the pressure on the Council's budget, maintenance of the athletics facilities ceased following the relocation of the athletics club.
- 7.9 The concrete terracing to the track used to have rows of timber bench seating. Repeated acts of vandalism have resulted in the timber benching being smashed up and destroyed and the concrete has been broken in several places. Contractors have inspected the site for the Council and assessed the condition of the terracing as poor. The terracing is no longer used due to its poor condition.

- 7.10 The cost of providing a modern synthetic running track is estimated to be around £1m based on Sport England Guidance. Given that there are 3 modern synthetic running tracks around 20 minutes drive time from Chesterfield (at Tupton, Spinkhill and Kirkby in Ashfield), the likelihood of securing grant funding from Sport England to provide a modern athletics track is extremely low.
- 7.11 The use of the single football pitch ceased at the end of the 2012/13 football season due to a combination of factors:
- Teams disbanding – which happens annually
 - Teams re-locating to more suitable venues with alternative provision better suited to support club development
 - Teams relocating to better quality facilities to meet league standards and player expectations.
- 7.12 There is a pavilion on the site which provides changing facilities. Over the years the building has also suffered repeated vandalism. The building has also been inspected by contractors and overall its condition is poor due to:
- Flat roof nearing end of its life, with numerous areas of 'ponding'
 - Shiplap cladding to walls has had many patch repairs due to vandalism and further repairs are needed
 - Windows have been smashed and boarded up. Many of the frames are rotten and in need of replacement
 - Internally the plasterboard walls to the main room have been damaged due to vandalism and had many patch repairs
- 7.13 Two exercises have recently been carried out on behalf of the Council in order to assess the need for playing pitches and sports facilities in the district.
- 7.14 As part of the planning application the Council commissioned an Assessment of Need through Neil Allen Associates (independent sport strategic planning specialists) who are approved by Sport England to use their assessment toolkits to support the planning application for the new Sports Centre. This considered the need to replace the existing Queen's Park Sports Centre and the impact of the loss of the athletics track and the single football pitch on the Annexe site. A copy of the

Assessment of Need provided in support of the planning application is attached at Appendix C.

- 7.15 The Council published its new core strategy in 2013 within which the need for an updated Playing Pitch Strategy (PPS) was identified. This coincided with Sport England reviewing the recommended PPS methodology framework. Officers consulted with Sport England and concluded that use of the new methodology for the PPS was the best approach. The PPS review process coupled with poor access to some services such as school sites during the summer holidays delayed the commencement of the work until the Autumn of 2013.
- 7.16 The Council worked closely with Sport England and were able to commission one of only two approved contractors to undertake the PPS work which commenced in October 2013 and is scheduled for completion and adoption (by Full Council) in the form of a PPS strategy for Chesterfield in July 2014.
- 7.17 The work has been completed in two parts, firstly consulting with Sport England, County Sports Partnership, School Sports Partnership, Local Clubs and National Governing Bodies (NGBs) completing an audit of all pitch provision in the borough (completed February 2014); secondly preparing a draft report of the results, again consulting with the same stakeholders to agree the report findings, develop recommendations and develop a final strategy and action plan for Chesterfield.
- 7.18 The planning application for the proposed new Queen's Park Sports Centre, approved on 19 May, was submitted in tandem with the PPS stage one work, and the needs and evidence data (NAA Assessment of Need Appendix C) has been used both by the Council and Sport England in the planning process. The draft PPS has been published on the Council's planning portal and therefore has been publicly available since April 2014. The needs and evidence identified in the published draft PPS and NAA Assessment of Need are robust and the consultation process adopted has been extremely effective with very high levels of return achieved. The main findings in the PPS analysis are as follows:
- Overall there are sufficient football pitches in the borough but there are too many adult sized pitches and insufficient junior sized pitches (note section 6.24)

- There is a demand for another multi-pitch site to support the development of larger clubs (the Annexe would not be suitable due to its restricted size)
- The overall quality of the football pitches provided needs to improve
- Football clubs would ideally like another 3G pitch in the Borough.

7.19 The Assessment of Need completed by NAA considered the detailed case for the development of the key facility elements for the new sports centre (sports hall and swimming pools) having regard to the Sport England Facilities Planning Model and specifically the proposed removal of the single adult football pitch and the athletics track on the Annexe site. Overall the NAA Assessment of Need concluded that developing the new sports centre on the Annexe and removal of the football pitch and athletics track is justified in terms of needs and evidence in order to meet current and future sporting and physical activity needs of local residents.

7.20 The Assessment of Need by NAA and the draft PPS concluded that because of adequate accessible provision being available elsewhere within a short distance of the Annexe (as detailed at para 7.10) the retention of the athletics track is not necessary.

7.21 Both the NAA Assessment of Need and the draft PPS support the view that there is no need for the single adult football pitch to be retained on the Annexe site in terms of current capacity and standards for adult football in the borough, because:

- Overall there are sufficient football pitches in the Borough to meet demand if the Annexe pitch is removed. The remaining mix of adult and junior pitches is imbalanced and reconfiguration is being addressed as identified in the draft PPS recommendations. The Annexe pitch is a full sized adult pitch. The teams that played on it have either ceased to exist or transferred to other facilities which better meet their needs and/or league and player expectations.
- There is not a sustainable need for a single pitch of this nature as there is identified strategic demand for the development of multi-pitch (Hub) sites to support the development of larger clubs providing opportunities for a wide age group, gender mix, training and match play facilities. The Derbyshire Football Association and Sport England advocate the development of Hub sites which, as they are more efficient to operate and maintain, can have better quality pitches, can support the investment in ancillary facilities such as car

parking, changing rooms etc, have a range of pitches to facilitate progression from junior to adult pitches and provide other benefits, e.g. child protection, integrated multi-use for other sports etc. However, given the features required for a suitable Multi pitch Hub the Annexe would not be suitable due to its restricted size, ability to be developed and the topography of the site. Single pitch sites are also more expensive to operate.

- Significant work is already underway to improve the quality and quantity of football pitches at other locations in the Borough which will satisfy any need for appropriate facilities, e.g. at Holmebrook Valley Park, Langer Lane, Chesterfield Rugby Club site etc.
- The single pitch on the Annexe would not be appropriate to be developed into junior pitches. This is due to its size relative to developing a hub style approach and delivering progressive club development needs, restricted site/topography, its history of vandalism, and that strategically the Annexe is confirmed as the best site for the proposed new sports centre.

Position of Sport England

- 7.22 Sport England is a statutory consultee and assesses the planning applications against relevant government guidance including that contained in the National Planning Policy Framework (NPPF). It is Sport England's view that to ensure informed decisions can be made, local authorities should have a robust and up-to-date evidence base for sport in place, including a Playing Pitch Strategy (PPS). This view is supported by paragraphs 73 and 74 in the NPPF. Therefore, when assessing planning applications on which it is consulted, Sport England will first consider how an application fits with the evidence base for sport in place within the local area.
- 7.23 Officers have consulted with Sport England regarding the planning application and their requirement for needs and evidence as highlighted above. As the Council has not formally adopted the publicised draft PPS document, and although Sport England supported the planning application approved on 19 May, Sport England have a duty to object to any reduction in numbers of pitches unless one of 5 exceptions as defined in paras 73 and 74 of the NPPF, one of which is that a playing pitch is surplus to requirements. Sport England is unable to confirm that there is a surplus of playing pitches until/unless a formally adopted up to date PPS is in place and it is clear that the proposal to remove the Annexe football pitch and athletics track is satisfactorily addressed.

7.24 In order to ensure that the Council delivers on its responsibility to provide or protect the required levels of playing pitch provision in Chesterfield, and recognising the robust methodology followed to arrive at the current evidence and draft strategy position, Sport England agreed to a planning condition which acknowledges the findings of the PPS analytical work and its outcome in that there is a surplus of adult pitches in the borough. However, until the final PPS strategy and associated action plan is formally adopted by the Council, there is provision in place to ensure that current adult pitch capacity is maintained albeit through pitch reassignment to a mutually agreeable alternative site agreed with Sport England in Chesterfield. An appropriate site has been agreed as part of the planning process and will be put in place prior to any building commencing on the Annexe site. The site (at Somersall Park) is also acceptable to the Derbyshire County Football Association.

7.25 The Council is finalising the Playing Pitch Strategy (PPS) which will address current and future requirements for the sports of football, cricket, rugby, hockey, tennis, bowls and athletics. For the purpose of clarity, in meeting its obligations to ensure robust strategies and plans are in place to support the Councils core planning requirements, independent specialist sport and leisure consultants Neil Allen Associates (NAA) have been commissioned to:

- Provide an assessment of need and analysis of current and future demand (up to 2031) for playing pitches
- Assess the quality of the existing pitches
- Assess the need for Athletics provision
- Develop an action plan for the Chesterfield Outdoor Sports and Playing Pitch Strategy

A copy of the draft PPS is attached as Appendix D.

7.26 In summary, therefore, the athletics and football facilities at Queen's Park Annexe are no longer required because they are no longer in regular use, they are in poor condition, they do not meet the current needs for multi pitch hubs and the terraces and changing rooms have been subject to repeated vandalism. Any work to improve the quality of the Annexe site would not be justifiable in view of the inability to develop multi pitch Hub provision and in view of the ongoing regular acts of antisocial behaviour and vandalism. The Council is seeking to improve the quality of pitches elsewhere in more appropriate locations to meet ongoing and future demand.

The appropriation will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land.

- 7.27 The proposed development responds to identified needs and evidence for the provision of good quality sport and leisure provision in the community, which is reflected in the Councils Corporate Plan, key priorities and stated Vision "Putting Our Communities First".
- 7.28 In May 2007 a report was received by the Council's Cabinet focused on future options for the Culture and Leisure services including the existing Queen's Park Sports Centre (QPSC). The report identified a number of challenging issues including the lack of ability to meet customer expectations for modern sport and physical activity provision, and challenges arising due to premise age/condition and obsolete design.
- 7.29 In 2008 the Council commissioned external leisure consultants (PMP) to review the Council's Leisure and Cultural services; QPSC was identified as being in most urgent need of capital investment.
- 7.30 Further work involving consultants and key officers was undertaken to consider the feasibility of replacing the existing QPSC or refurbishing it. This work identified the nearby Annexe site as a suitable site for a modern, more efficient replacement sports facility to be provided. Further reports were considered by Cabinet in 2010 and 2011. There was a change of political administration in May 2011.
- 7.31 In January 2012 Cabinet considered a report on the provision of the Council's leisure services and the need to refurbish/replace Queen's Park Sports Centre. The report identified Queen's Park Annexe as a potential site for any new sports centre. The 2012/2013 Corporate Plan included a key project "To develop and deliver an improvement programme for Queen's Park Sports Centre". A feasibility study was commissioned in 2012 and the Council subsequently approved a new build project for the Annexe site in January 2013. The 2013/2015 Corporate Plan included a further key project for 2013/14 "Commence the Capital Project to replace the Queen's Park Sports Centre".
- 7.32 Project Managers were appointed in May 2013 and a design and build option was developed for a proposed new QPSC on the Annexe site. The formal procurement and design process was adopted in accordance with Sport England guidance and also included two robust tranches of consultation undertaken in the Summer of 2013. The consultation involved residents, users of the sports centres, community clubs, disability groups, and wider stakeholders such as national sports governing bodies, Sport England, and other organisations. The

consultation focused on both the mix of facilities to be provided and the layout, look and feel of the new building design. The consultation made clear that any new sports centre would be sited on the Annexe. Copies of the results of the consultation are attached as Appendices H, I and J respectively.

- 7.33 On 24 July 2013 Full Council considered a petition with over 1000 signatures against the building of a new sports centre on Queen's Park Annexe. Members agreed to note the petition and that the petition and debate at full Council be taken into account by the Executive as part of its ongoing commitment to consult with the public, the sports national governing bodies and other stakeholders before coming to a final view on the format of the Queen's Park Sports Centre replacement project. A copy of the Council minute regarding the petition is at Appendix E.
- 7.34 The planning application for the proposed purpose built sports facility on the Queen's Park Annexe was submitted in December 2013 (reference CHE/13/00635/FUL) and was considered by Planning Committee on 19 May 2014. The application was approved, subject to planning conditions and planning permission issued on 21 May 2014 (see paragraph 8.0).

Promotion of the Economic, Social and Environmental Wellbeing of the Area

- 7.35 The new sports centre will promote the economic, social and well being of the area.
- 7.36 The new sports centre will offer environmental benefits as it will use significantly less energy than the current centre and is expected to achieve a BREEAM rating of 'very good' and an energy performance certificate (EPC) rating of 'A' (in comparison the existing Queen's Park Sports Centre is rated 'F' and the Healthy Living Centre is rated D). The new centre will maximise energy efficiency by:
- Designing a smaller, more compact and efficient building footprint
 - Designing the most thermally efficient building envelope to prevent heat loss and excessive solar gain
 - Using passive design strategies to maximise solar energy and natural ventilation to suitable areas
 - Using a BMS system to automatically control the building's environmental systems for optimum energy consumption

- Exceeding the targets set in the current building regulations (part L)
- Using a combined heat power system

7.37 The new sports centre will also be designed to minimise water consumption. Measures that are being considered include:

- Ensuring the most efficient swimming pool water treatment and management systems
- Installing automatic sensor flow taps & waterless urinals
- Installing a leak detection system
- Use of grey water for flushing toilets.

7.38 The new site will be enhanced with integrated College services and others such as Health Referral and Midwifery, but retain access to those activities currently provided in the existing Sports Centre site. This will be achieved in a reduced footprint of over 25% which is primarily non-sporting and general circulation space; the modern design will also provide improved energy efficiency performance of up to 35% on costs compared to those incurred operating the current sports centre.

7.39 As part of the planning application for the new sports centre the Council was asked to undertake a Heritage Impact Assessment of the proposed development and a copy is attached at Appendix B. In respect of the existing Queen's Park Sports Centre, the report states that 'the construction of the indoor swimming pool in the 1960s introduced an alien bulk into the park environment. The attempt in the 1980s, to mitigate the harm by disguising the building as a Paxton glasshouse was accompanied by further bulky additions and walled parking areas, the overall effect of which has been to intrude into and degrade the quality of the western margin of the park and views of the park from Boythorpe Road. Consequently, these changes detract from the heritage significance of the park'. The Council's Conservation Officer identified in the Queen's Park Conservation Area report that the sports centre is 'inappropriate in scale and materials' for its setting.

7.40 The construction of a new sports centre on the Annexe and the demolition of the existing centre provide an opportunity to remove the 'alien bulk' of the existing sports centre and by comprehensive re-planning of the western margin of the park we can achieve the maximum potential enhancement of the park and a major positive environmental impact in the appearance of the park. Whilst a scheme

would have to be developed, reinstatement of a formal entrance into the park from the west side, through the original gateway, even if this involved relocation, would be a desirable and positive outcome. This might be combined with one or more controlled attractive views into the park, which might have the added benefit of improving passive surveillance. A suitably designed scheme would make a very positive impact on the character and appearance of the Queen's Park Conservation Area and its significance as a heritage asset. Should the Council decide to use the existing site for other purposes that require a new building, suitably designed low rise buildings would also have a positive impact on the appearance and character of the park compared to the current sports centre. This improvement to the character and appearance of Queen's Park cannot be achieved by the retention of the existing sports centre.

- 7.41 The replacement of the athletics track and adult football pitch with a new sports centre will have greater benefit to the local community than the retention of the football pitch at the Queen's Park Annexe as the overall development will increase the range of facilities and opportunities provided on the Annexe site and deliver new high quality facilities in line with need, which will deliver increases in participation in sport and physical activity. This increase in participation will have a wider health and well being benefit due to the widely recognised benefits to people's physical health and mental health arising from sport and physical activity.
- 7.42 The Annexe site has been chosen as from a social perspective it is easily accessible by public transport due to its close proximity to the town centre and in particular can be easily walked to by residents of Holmebrook and Rother wards. The State of the Borough report confirms that in these areas over one third of residents do not own a car. Wider social benefits will be derived, in particular in the Rother Ward through opportunities arising in respect of local training, employment and the local economy.
- 7.43 The new centre will further improve social well being, for example through modern design and innovation enabling disabled people easier access to leisure facilities, e.g. ability to park very close to the building entrance, the swimming pools will have level deck access, learner pool will have a moveable floor, main pool will incorporate easy access steps and a platform hoist. The provision of family car parking spaces and village changing facilities that allow families to change together will promote family access to the facility.

7.44 The new sports centre project will also drive delivery of the Sport England Legacy Plan which is aimed at making a difference to participation and creating a sustainable sporting infrastructure for the future. The plan includes the following key priorities which will require diverse and innovative projects that benefit from a collaborative approach whether that is multi-sport, multi partner, or both:

- **A growth in participation in the 14-25 age range;** - a facility mix reflecting community, sports club, NGB and wider stakeholder priorities for participation. Consultation is including this age group as a key part of the facility design process with specific connectivity with Chesterfield School Sports Partnership (SSP) and College partner students. The facility will be pivotal as a community hub hosting after school clubs, College student sports studies 32 weeks per year, a key link with the jointly funded SSP and the local Sporting Futures team. The site will be a catalyst for integrated local activity development and a delivery mechanism for local sports organisations, School Club links and similar initiatives. The facility will be of particular value to local schools with limited or no indoor sporting provision and a strong link providing and facilitating sporting diversionary activity linked with community safety teams and volunteers.
- **A growth in participation across the adult population** – modern facilities designed to accommodate all user groups, in particular focusing on young people, older adults, families and hard to reach groups.
- **A growth** in participation by people with disabilities, including those with talent; A modern accessible design and local stakeholder shared priorities sufficient to maximise participation jointly working with NGBs, the College and the SSP including community based clubs, programmes and initiatives that actively encourage integrated sustainable facility participation and club development. Facility design reflects consultation with Disability organisations and forums including formal and informal needs to maximise regular activity and developing sporting excellence.
- **An excellent sporting experience for existing participants to keep them playing sport;** - Through the provision of modern high quality facilities that will better meet the needs of individuals and local clubs and groups.
- **High quality** talent development which creates strong England talent pathway to link with UK sport elite programmes – Working with NGB and County Sports Partners (CSP) including the SSP and College

programmes. Building on Club development initiatives acting as a community hub linked to 8 secondary schools in the Borough delivering on key sports identified in NGB Whole Sport plans for the area.

- 7.45 Overall the new sports centre will encourage more people to participate in sport and physical activity, also leading to economic benefits to the Council by increasing revenue, operating efficiency, and further reducing the subsidy that the Council incurs in operating the current Queen's Park Sports Centre facility.

The proposed appropriation accords with the provision of the development plan.

- 7.46 Members are referred to the Planning Committee report for information about those matters taken into account in reaching the decision on the planning application, particularly that the development is in accordance with local and national planning policy, considerations about location and impact of the development and effect on sports facilities. These matters support the view that the proposed new use is in the interests of the proper planning of the area.

8.0 PLANNING APPLICATION

- 8.1 The planning application for the proposed public sports facility on the Queen's Park Annexe was submitted in December 2013 (Planning Application Reference CHE/13/00635/FUL).
- 8.2 At its meeting on 19 May 2014 Planning Committee considered the application. A copy of the report to Planning Committee is attached at Appendix F.
- 8.3 The Committee resolved to approve planning permission, subject to planning conditions and planning permission was issued on 21 May 2014.

9.0 CONSIDERATIONS

- 9.1 In considering whether the land is no longer required as a public pleasure ground, Cabinet should be aware that while the improvement of sporting facilities brought about by the proposed development of a new sports centre was relevant both to the decision on the planning application and as to whether the land should be appropriated for planning purposes, it is not directly relevant to any conclusion that the current use of the land is no longer required (i.e. basis of the decision under Section 122).

9.2 The decision whether or not to appropriate for planning purposes is dependent on several factors as identified in para 5.7 which are as follows:

- the land is no longer required for the purpose for which it is currently held (the s.122 test);
- the appropriation will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land
- it will contribute to the promotion of the economic, social and/or environmental well being of the area (the s.226(1A) test);
- it accords with the provisions of the development plan, and whether planning permission is in force and any other considerations that would be material to the determination of a planning application for development of the land.

10.0 HUMAN RIGHTS

10.1 The relevant human rights issues have been considered in drafting this report.

10.2 The area of land to be appropriated is no longer needed as a public pleasure ground.

10.3 The nearby Queen's Park provides an alternative pleasure ground that is of much higher quality than the Annexe and provides a wider range of facilities, e.g. children's playground, café.

10.4 The Queen's Park Annexe athletics track and associated pavilion are in poor condition and the athletics track has not been used for several years. Suitable alternative athletics facilities are located within 20 minutes driving time.

10.5 The Annexe has limited use at present due to absence/condition of facilities. The seasonal activities of bowls and tennis are unaffected by the land appropriation.

10.6 The NAA Assessment of Need and emerging PPS concluded that the athletics and adult football facilities at Queen's Park Annexe are no longer required. They are no longer in regular use, they are in poor condition, they do not meet the current development needs for multi pitch hubs, and the terraces and changing rooms have been subject to repeated vandalism.

10.7 The Council is seeking to improve the quality of pitches elsewhere in more appropriate locations in the borough and similar works to the Annexe site are unlikely to be justifiable due to the site size and ongoing vulnerability to vandalism.

10.8 The proposed development is in the public interest for the following reasons:

- The NAA Assessment of Need and emerging PPS confirm that the new sports centre is justified in terms of need and evidence to meet current and future sporting and physical activity needs of local residents.
- The new sports centre will have a positive environmental impact by being significantly more energy efficient than the existing centre on Queen's Park.
- The construction of the new sports centre provides a unique opportunity to re-model the western side of Queen's Park and improve the character and appearance of the park itself.
- The new sports centre will incorporate modern design and innovation improving access by families and for disabled people. A modern new centre will attract more users than the current centre and will encourage more people to participate in sport and physical activity with the resultant benefits to their physical and mental well being.
- The development is located on site that is close to the town centre, is accessible by public transport and close to the deprived Rother Ward.
- The proposed land appropriation will facilitate the development of a new sports centre which has been granted planning permission, and will also be sufficient to accommodate a larger facility should the funding application submitted to Sport England be successful.

10.9 Individuals (if any) who benefit from restrictive covenants would be affected by the effect of Section 237 of the Town and Country Planning Act 1990 resulting from the appropriation. However, there is provision for compensation under the Act. The public at large would also be affected by the overriding of the public trust and the change from public recreational purpose of the land to its use as a sports centre.

10.10 The public have been fully engaged in the proposal for redevelopment. As part of the proposal for development of the new sports centre, two robust pieces of consultation were undertaken in the summer of 2013. The consultation involved residents, users of the sports centres, community clubs, disability groups, and wider stakeholders such as national sports governing bodies, Sport England, and other organisations. The consultation focused on both the mix of facilities to be provided and the layout, look and feel of the proposed new building design. Consultation was undertaken via a number of different methods including:

- Questionnaires within the existing sports centres and other Council venues
- On line
- Use of an “opinion meter” in various locations
- Road show events at a local supermarket, library, market square, community event “Party in the Park” and within the existing Queen’s Park Sports Centre and the Healthy Living Centre in Staveley.
- Meetings with Sport England, national sports governing bodies, representatives of local clubs and equalities groups.
- Copies of the results of the consultation on the facilities mix and design of the new centre are attached at Appendix H and Appendix I
- Planning Consultation – Appendix F

10.11 A petition opposing the development proposals was considered by Full Council in July 2013 and the Council resolved to take the petition and the debate at Full Council into account as part of its commitment to consult before coming to a final view on the format of the proposed new sports centre project (see paragraph 7.33 and Appendix E)

10.12 In view of the above it is considered that the public have been given appropriate notice of the development proposal and an opportunity to make representations.

10.13 There would be further consultation under Section 122(2A) of the 1972 Act before Cabinet makes its final decision on whether or not to appropriate the land.

11.0 OTHER ISSUES

11.1 Financial

- 11.1.1 The costs associated with the appropriation of the land are modest and can be met from within existing budgets.
- 11.1.2 There is provision for compensation under the Act for individuals (if any) benefitting from any restrictive covenants. The Council will seek insurance to cover any potential claim.

11.2 Equalities

- 11.2.1 An equalities impact assessment has been completed for the new sports centre project and is attached at Appendix G. The EIA confirms that there are no negative implications in respect of the proposed new facility and sets out the positive impacts.

11.3 Legal

- 11.3.1 Appropriation is a statutory process under the Local Government Act 1972 which results in a change of purpose for which the land is held by the Council when the land is no longer required for its original purpose. Any intention to appropriate would be subject to public consultation before a final decision is made by Cabinet.
- 11.3.2 The effect of appropriation would be to free the land of any existing trust. Section 237 of the Town and Country Planning Act 1990 provides that appropriation will override third party rights over the land, provided the development is done in accordance with planning permission.
- 11.3.3 The Council has sought advice from Queen's Counsel on any legal issues arising from the appropriation of the land and the advice has been taken into account in preparing this report.

12.0 RISK MANAGEMENT

12.1 A summary of the risk management issues is shown in the table below:

Risk	Likelihood	Impact	Mitigating Action	Revised Likelihood	Residual Impact
Cabinet does not agree to appropriate the land	Possible	Very High	Agreement to appropriate the land for the reasons set out in the report	Unlikely	Low
Legal Challenge to the appropriation of the land	Possible	Very High	Strict adherence to the legal process. Advice sought from the Head of Governance and Queen's Counsel as necessary.	Possible	Very High
Claims for compensation	Unlikely	High	Strict adherence to the legal process. Advice sought from the Head of Governance and Queen's Counsel as necessary. Council to take out an insurance policy	Unlikely	Low

13.0 RECOMMENDATIONS

13.1 That Cabinet determines whether the land shown at Appendix A is no longer required for the purposes of a public pleasure ground under the Public Health Act 1875.

Subject to that determination:

- 13.2 That Cabinet considers whether to appropriate the land shown at Appendix A for planning purposes.
- 13.3 That Cabinet indicates an intention to appropriate the land shown at Appendix A pursuant to Section 122 of the Local Government Act 1972.
- 13.4 That Cabinet authorises consultation on the intention to appropriate the land in accordance with Section 122 of the Local Government Act 1972.
- 13.5 That a further report be prepared and that Cabinet considers any representations received and make its final decision on whether or not to appropriate the land.

14.0 REASONS FOR RECOMMENDATIONS

- 14.1 To confirm that the land is no longer required for the purposes for which it is currently held.
- 14.2 To establish an intention to appropriate the land under Section 122 of the Local Government Act 1972
- 14.3 To enable preliminary consideration of whether or not the land should be appropriated for planning purposes under Section 237 of the Town and Country Planning Act 1990
- 14.4 To enable public consultation to take place on any intention to appropriate.
- 14.5 To comply with the requirements of Section 122 of the Local Government Act 1972.
- 14.6 To enable the new sports centre to be constructed to improve the social, environmental and economic well being of the area.

DARRAN WEST
HEAD OF ENVIRONMENT

You can get more information about this report from Darran West (Extension 5751) or Mick Blythe (Extension 5101).

Officer recommendation supported/not supported/modified as below or Executive Members' recommendation/comments if no Officer recommendation.

A Serjeant

Signed

Executive Member

Date 3rd June, 2014

Consultee Executive Member comments (if applicable)

Appendices to add:

APPENDIX A

Plan showing land proposed for appropriation

APPENDIX B

Heritage Impact Assessment

APPENDIX C

Assessment of Need

APPENDIX D

Playing Pitch Strategy

APPENDIX E

Minute of petition

APPENDIX F

Report to Planning Committee on Application CHE/13/00635/FUL

APPENDIX G

Equalities Impact Assessment

APPENDIX H

QPSC Phase 1 Facility Mix Questionnaire

APPENDIX I

Public Consultation Boards

APPENDIX J

QPSC Phase 2 Consultation Report