

<b>The Recreation Ground Trust, Bath</b>	
Meeting:	Recreation Ground Trustees
Date:	18 July 2013
Title:	<b>Lease for temporary east stand for 2013/14</b>
Status:	An open public item
Appendices:	Heads of terms to be available at the meeting

## **1. Purpose of report**

- 1.1 To set out proposed heads of terms for the lease for the temporary east stand for the 2013/14 season, for consideration and approval.

## **2. The annual lease for a temporary stand**

- 2.1 In previous years, the Trust has applied to the Charity Commission for an order to permit the granting of a lease for a temporary east stand on land extending outside of Bath Rugby's existing lease. The application has been made in the early summer so that an order can be made and an annual lease granted in time for the temporary east stand to be erected before the start of the coming rugby season.
- 2.2 The Scheme has now granted the Trust the power to grant a new lease of the current Bath Rugby site which includes provision for a lease for a temporary stand on the additional land specified in Part 4 of the Schedule to the Scheme.
- 2.3 Any such lease must be excluded from the Landlord and Tenant Act 1954 and can only permit use for a temporary stand, playing pitch or access areas. It must also require that the area concerned be available for the purposes of the charity (i.e. for public recreation) for at least three months in each year.

## **3. Quorum necessary to grant a lease**

- 3.1 The Scheme requires that before any decision can be taken to exercise the new power to grant a lease, at least five trustees must be present at the meeting.

- 3.2 However, the Scheme only appoints three of the first trustees. Although the fourth trustee can now be appointed, the fifth trustee can only be appointed when the first trustees appoint at least three co-opted trustees, as they are required to do by the scheme. Before making those appointments, the first trustees will need to agree a process and then undertake a recruitment exercise. The appointment of co-opted trustees must be made at a meeting of which not less than 21 days' notice has been given.
- 3.3 These requirements mean that it will not be possible for the trust to grant a temporary lease under the powers of the Scheme within the timescale needed to erect the temporary stand. It is proposed, therefore to apply to the Charity Commission for an order under section 105 of the Charities Act to allow the Trust to grant a temporary lease along the lines of previous years.

#### **4. The interests of the charity**

- 4.1 Granting a lease for a temporary stand is in the interests of the charity for two main reasons.
- 4.2 Firstly, a temporary east stand is an integral part of the Trust's proposals for resolving the issues arising from the 1995 lease to Bath Rugby. These proposals were consulted upon in 2011 and publicised again in 2012, attracting overwhelming public support on both occasions.
- 4.3 The power to grant a lease for a temporary east stand is also a key part of the Charity Commission's Scheme, made for the purpose of resolving the breaches of the charitable trusts. But for the technical issue of the quorum, the Trust would be able to grant the lease under the powers granted by the Scheme.
- 4.4 Secondly, the rent from the temporary stand represents by far the Trust's largest source of income. Without this, the Trust would be barely viable and in a very poor position to deliver its charitable objectives.

#### **5. Proposed terms for the 13/14 lease**

- 5.1 It is proposed that the new lease will be on the same area of land and have the same terms as the lease for the 12/13 season, with the following amendments:
- The term will be 14 August 2013 to 13 May 2014 (39 weeks).
  - The rent will be £117,560 (16 match fee plus stand fee) plus £7,942 for additional matches. This represents an increase of 16.3% on the rent for 12/13.
  - Additional requirements are included for the reinstatement by the Club of the outfield land affected by the routes of the fire exits from the stand.
- 5.2 Full heads of terms for the lease will be available at the trustees' meeting.

## **6 Advice sought**

- 6.1 Advice on the terms for the proposed lease has been obtained from Deloitte LLP and their valuation assessment will be available at the trustees' meeting. It is necessary for the Trustees to be able to assure themselves and the Commission that the terms are in the Trust's best interests and in particular that the rent and other terms are best reasonably obtainable for the Trust.
- 6.2 The Trust's legal advisor has reviewed this report and her comments upon it have been incorporated.

## **7 Recommendation**

- 7.1 It is recommended that:
- (i) The Trustees agree that, in the light of the professional advice received, the proposed terms are the best reasonably obtainable for the Trust, and approve the terms.
  - (ii) Application be made to the Charity Commission for the relevant order to allow the Trust to grant a lease for a temporary east stand for 2013/14.
  - (iii) The lease be granted in time for the erection of the temporary stand before the start of the 2013/14 season.

Contact	Tim Darsley, Recreation Ground Trust Project Advisor. Tel 01225 477221
---------	--