

# Cabinet SUPPLEMENTAL AGENDA

**DATE: Thursday 10 April 2014**

## **AGENDA - PART I**

### **CHILDREN AND FAMILIES/ENVIRONMENT AND ENTERPRISE**

**KEY 12. WHITCHURCH PLAYING FIELDS - FREE SCHOOL (Pages 1 - 8)**

Revised Appendix 2 to the Joint Report of the Report of the Corporate Director of Environment and Enterprise and Interim Director of Children's Services.

## **AGENDA - PART II - Nil**

*Note: In accordance with the Local Government (Access to Information) Act 1985, the following agenda item has been admitted late to the agenda by virtue of the special circumstances and urgency detailed below:-*

Agenda item

Special Circumstances/Grounds for Urgency

11. Whitchurch Playing Fields - Free School Revised Appendix 2

Appendix 2, as revised, was not available at the time the agenda was printed and circulated as negotiations with the Education Funding Agency have continued since the publication of the agenda. Members are requested to consider the revised appendix 2, which sets out the up to date information and position in respect of the Heads of Terms for the Community

Use Agreement, as a matter of urgency, prior to making a decision on the substantive report.

*[Note: Due to the circulation of the revised appendix 2 after the normal Cabinet agenda despatch, the deadline for the receipt of public and Councillor questions on the content of the appendix to the substantive report, as agreed by the Leader of the Council, is midday on Thursday 10 April 2014.]*

HEADS OF TERMS: COMMUNITY USE AGREEMENT (CUA)

1. Tenant Avanti Schools Trust  
Camrose Avenue  
Edgware  
Middlesex  
HA8 6ES  
Company No : 7506598
  
2. Agent Tenants Justin Anderson, DTZ
  
3. Lawyer Tenants Trowers&Hamlins LLP of 3 Bunhill Row  
London EC1Y 8YZ (marked for the  
attention of Sangita  
Unadkat [Unadkat@trowers.com](mailto:Unadkat@trowers.com)
  
4. Landlord [Plan needed?] As per Head Lease  
already provided  
LB of Harrow and its nominees (to be  
more broadly defined to include )
  
5. Landlords Agent As nominated by the Landlord from  
time to time
  
6. Landlords Lawyer David Wardle  
Bevan Brittan
  
7. Property Avanti House School, Whitchurch  
Playing Fields
  
8. Facility The Whitchurch Playing Fields, and  
school sports hall and MUGAs (the  
"Facility") plus associated changing  
facilities (Schedule 1),( or any  
individual part(s) that comprise the  
Facility.
  
- 9 Permitted Users As defined in schedule 2 and such  
other nominees of the Landlord

10. Permitted Hours

Term Time is defined as the term dates for the Avanti House School.

School Core Time is defined as 9am-5pm on any weekday during Term Time.

Peak Hours is defined as 5-10pm on weekdays and 9am-10pm on weekends, and Bank Holidays. And 9am to 10pm outside the schools core term time

Provided that there is no conflict with the schools scheduled curriculum the Tenant will be obliged to make available for Community use and hire the Facility during Term Time, School Core Time and Peak Hours, as specifically defined in Schedule 2.

11. Usage Agreement and Review

The Charges to be based on Harrow Councils standard fees and charges as agreed and set annually as part of the councils budgeting process.

12. Permitted Use

The Facility to be used for sporting and ancillary purposes and to increase the quality of sporting activity opportunities for the residents of Harrow.

The objective is to maximise the use of the Facility during peak use periods and school holidays.

13. Term/Termination /Assignment

(a) The 125 Year Lease will reserve a right for the Landlord (and all third parties authorised by the Landlord) to use the Playing Fields and Sports Facilities on the Property for Community Use in accordance with terms to be agreed between the Landlord and the Tenant from time to time;

(b) The Agreement for Lease will attach a draft Community Use Agreement that is provisionally agreed between LBH and

Avanti Trust. The Agreement for Lease will allow for the draft Community Use Agreement to be modified after exchange of Agreements for Lease so as to deal with, for example, changes required by the outcome of the planning process. The Agreement for Lease will require LBH and the Avanti Trust to enter into the Community Use Agreement on completion of the 125 Year Lease. This Community Use Agreement will therefore be the 'terms to be agreed' as referred to in Para (a) above.

- (c) Community Use Agreement to be entered into with the Avanti Trust will contain a mechanism for it to be reviewed on a regular basis so as to ensure that it keeps pace with both parties' requirements. Any dispute on the outcome of any such review would be referred to an independent third party for determination.
  
- (d) The 125 year Lease will provide that following any permitted assignment of the 125 Year Lease the new Tenant will be bound by the terms of the Community Use Agreement in place between the Landlord and the previous Tenant at the date of assignment until such time as a new Community Use Agreement is in place. The Landlord and Tenant will both be under an obligation to use reasonable endeavours to agree the terms of a new Community Use Agreement as soon as possible after the date of the assignment. If the Landlord and the new Tenant are unable to agree these terms within a reasonable time then any dispute would be referred to an independent third party for determination.

#### 14. Repair

The responsibility for regular repair, maintenance, development and management of the Facility will remain with the Tenant. . Standard booking terms will cover damage by users as is

normal commercial practice when using a facility of this nature

15. Insurance

The Tenant shall be responsible for the insurance of the Facilities. Including public liability

16. Costs

The Tenant will bear all legal and professional fees incurred by the User subject to a cap of £10,000

17. Indemnity

Booking conditions can form part of user agreement detail but must not be such that they would deter the average user from using the facility

18. Conduct

Permitted Users will abide by the Tenants reasonable Code of Conduct. However, nothing in the Code of Conduct shall be more restrictive than that which is implemented by Avanti House School itself.

19. Other Uses

The CUA takes precedence over all other uses other than the Schools pre scheduled curriculum

20. Force Majeure

The Tenant will have the right to refuse use of the Facility in the event of water-logging, snow or other significant conditions that prevent safe and appropriate use of the Facility. The hours that the Facility is thus made unavailable shall not be required to be made up at other times.

21. Health & Safety

Users during school term time to be subject to CRB requirements and supervision provisions

22. Spectators and Crowds

Parents to spectate only outside school core hours and at agreed sports days

## **SCHEDULE 1**

### **Indicative Facilities to be Determined by Planning But Likely To Include**

1 x Full size Floodlit Artificial Grass (G3) Football Pitch of minimum size 100m x 64m

2 x full size grass Football Pitches of minimum size 100m x 64m

3x small size grass junior pitches 55mx 37m

Grass football pitch areas can form cricket table/pitch in summer

1 full size cricket table / pitch and marked out athletics track

Sports Hall with adequate associated changing room and shower facilities available to other schools as

curriculum permits

MUGA/MUGAs within main school built area

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## SCHEDULE 2

### The Obligations

Avanti House Trust shall make available, when not required for the delivery of Avanti House School, time tabled curriculum the Facility, or any part(s) that comprise the Facility, for:

1. Free of charge usage for local schools to include Whitchurch First and Junior Schools and Stanburn First and Junior Schools during School Core Time, for up to 1,000 hours.
2. A minimum of 200 hours per year during School Core Time at Harrow's standard tariff of charges\* to other Harrow schools.
3. A minimum of 250 hours per year on the full size G3 or Grass football pitch at Harrow's standards tariff of charges to Harrow Schools FA or other Harrow sports clubs.
4. A minimum 50 hours per year during Peak Hours for Instructive Sports Development Initiatives provided to Disability Organisations at Harrow's standard tariff of charges.  
\*To be agreed in respect of the 3G artificial pitch and Sports Hall
5. Outside of term time in July and August each year offer priority booking rights to local schools and clubs who block book the facility for the whole season.
6. Enable Schools in the Borough to hire the 3G pitch for up to 10 Cup Finals each year during the peak use period at Harrow's standard tariff of charges
7. School indoor Sports Hall and changing facilities plus MUGAs to be available to other schools on a pre booked basis during term time core hours and to other sports clubs/users outside core school hours at Harrow's standard tariff of charges. \*\*

\*To be agreed in respect of the 3G artificial pitch and Sports Hall

\*\*Any demonstrable increased costs arising from Weekend use or late evenings i.e. 8pm to 10pm to be based on a charge covering marginal cost.

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