

Questions for HBO Parish Council.

Presented to the HBO PC Clerk on 11th June 2024

A list of 171 unedited questions concerning the proposal to enter into a sub-lease with the HBO Sports and Community Club was submitted to HBO Parish Council following a meeting of interested residents on 6th June.

It is recognised that the unedited list contains duplications hence the parish council has sought to categorise the questions to enable a full and complete response to be provided to each topic area. The list has been checked to ensure each topic has been fully addressed.

As of July 8th, 2024, no decisions on the future of the green have been made. All decisions regarding adoption the heads of terms or not and sub leases will be held in accordance with the standing orders. The Heads of Terms have not been agreed by the council and that can only happen in council meeting held in public. Only if that happens will a sub lease be drawn up and if a sub lease is eventually produced the council will have to decide in a public meeting whether they will sign it.

The Proposed Sub-Lease

When the village green project was first discussed with the landowner part of the proposal was for the original land, outside of the village, that was the HBO sports club ground, would be 'returned' to the landlord as part of a 'land swap'. The new land (village green) was within the village and not at the extreme as was the existing ground.

The extremely generous Gosling family agreed to provide 12.5 acres of land, what we know as the village green for development as a sports and community space with a peppercorn rent for the period of 99 years. For all intents and purposes the village green is the property of the parish council.

A lease was signed on 19th January 2011 between William Gosling and Hatfield Broad Oak Parish Council.

As the new land was effectively 'swapped' for the old cricket ground, it was originally intended that the cricket or sports clubs would hold the lease for the new land. However, as the cricket club was not a legal entity and not registered for VAT it was deemed most appropriate for the lease to be with the parish council, which could recover VAT on the development costs.

However, with the above in mind, clause 3.10 of the lease, under the heading 'Assignment and Subletting', gives express permission, without consent, for the lease to be sublet to the HBO Village Green Co Ltd (for former name of the current HBO Sports and Community Club).

This clause allows for the original management structure of the village green to be restored.

The parish council voted to prepare draft head of terms for the sublease and for these to be converted into a legal document for agreement by the parties. The final document will be

public information and voted upon by the parish council before execution. The sublease will be for the duration of the current lease with appropriate break clauses for non-performance, financial failure or other standard reasons. This reflects the original sports club ground lease. The duration of the proposed sublease gives potential funders confidence in the security of the sublease, as we know from previous funding rounds. A sublease and Memorandum of Cooperation have been under discussion for over 10 years with the charity offering to assume rights to the pitches and entrance (for access) but with no agreement from the parish council. Various versions of the sublease heads of terms have been drafted by present and past councillors. The new arrangement regularises the long-standing lease intentions with the parish council paying the 'fee' for the charity to maintain the green for the public and allowing it to raise funds for the pitch maintenance. The sublease will be drafted and concluded by solicitors appointed by the parish council and the charity. It is considered a sublease is appropriate, rather than a licence, as this will give certainty of tenure for potential grant funders.	
The Village Green The village green was established and constructed for the beneficial use of the general public and the sports and activity clubs of Hatfield Broad Oak. Seed funding was provided by the parish council from the £50,000 fee obtained from a new access agreement for the two new houses adjacent to the recreation ground roadway. Villagers did not pay for this preparatory works, including fencing, archaeological excavations, newt survey etc. The remainder of the village green costs were funded by £165,000 of grants obtained from Viridor, BAA, ECC and others. The parish council has been responsible for maintenance and upkeep of the green since 2011 and these costs over the last three to five years will be averaged depending upon the works undertaken. Despite this sum The PC has not maintained certain public areas, in particular the paths, benches, pétanque court and fences over the last 12 years and the cost to do this will need to be included in the overall sum. Additionally, the parish council though has not performed the necessary maintenance to the sports pitches, which now require a recovery maintenance regime, which the sports club charity will undertake. The lease between the parish council and the landlord specifically describes the purposes to which the village green can be used, and any sublease would mirror those public objectives. No current user or resident of HBO would be prevented from using the green. It is a public space. There are no plans to build any residential property on the village green. It is not allowed under the lease, nor the sublease and would not be entertained by Uttlesford District Council. Likewise, any such idea would be strenuously opposed by the PC and the Charity. The vehicle entrance in Dunmow Road was located and designed according to the	

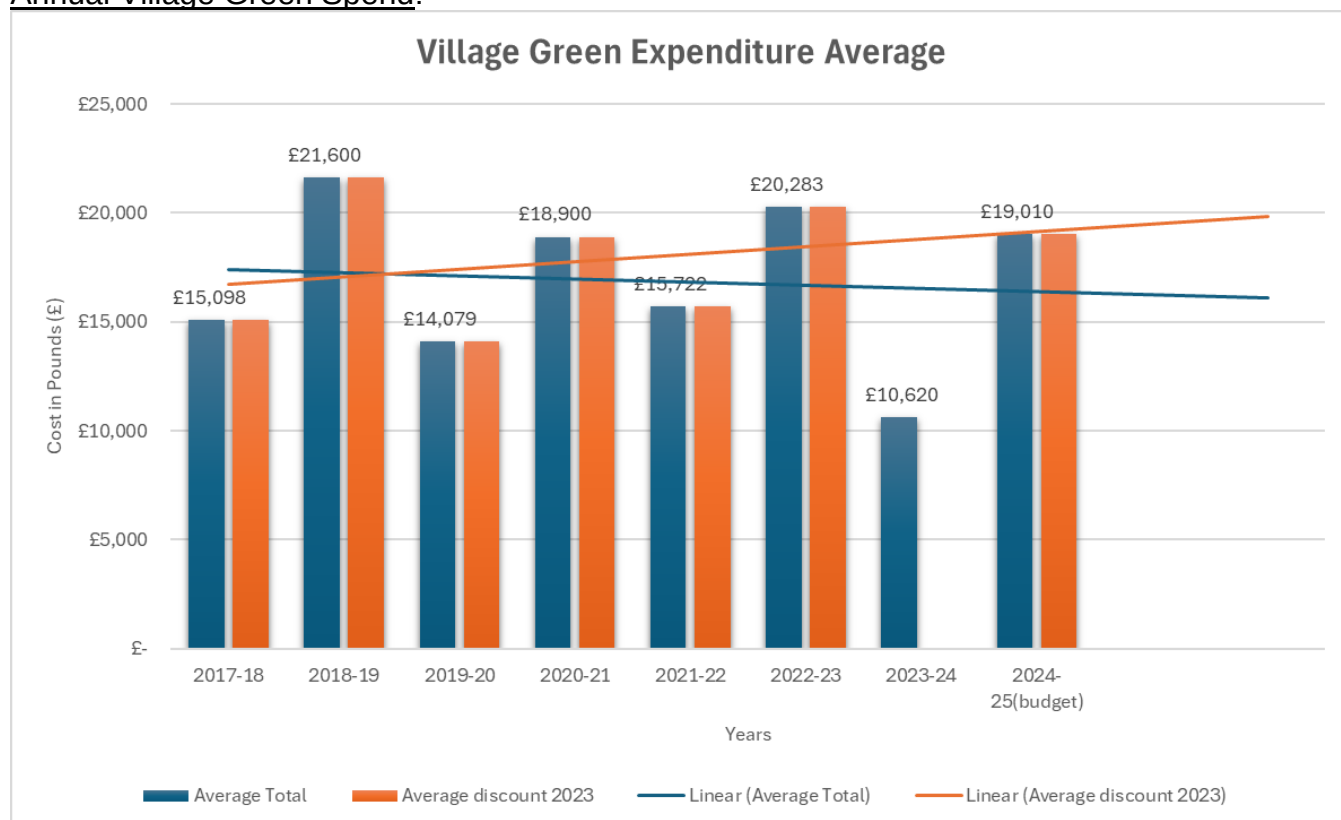
requirements of Essex County Council Highways to ensure good access, clear lines of sight, safety and usage outside of the residential area.

This was always to be a part of the overall plan for the green, so as to alleviate parking issues in the High Street. The parish council would have built the entrance anyway. Likewise fencing repairs would always have been part of the council's responsibilities under the terms of the head lease.

The ring drain was part of the original design and specification of the village green, however the parish council only managed to raise £165,000 in grant funding which did not stretch to completing the pitch drainage. There is now the opportunity to seek support via the sports clubs and carry out this long-awaited work.

Due to the issues of the parish council over the last 12 years, the maintenance and condition of the village green has suffered. This new arrangement will ensure that the parish council's liability is limited but that the charity will be able to raise funding to carry out the proper maintenance the green deserves.

Annual Village Green Spend:



Average including 2023 year: £16,914

Average discounting 2023 year: £17,813

The 2023-2024 expenditure was notably lower than usual due to several key factors. For part of the year, there was only a locum clerk in post with reduced hours, which led to a significant reduction in tree work and general maintenance activities. Additionally, regular maintenance of paths and fences was not carried out during this period as much of the council's focus was on implementing new systems and conducting necessary training. There was also a month when

two councillors were not in post, prompting a strategic decision to keep activities and expenditures to a minimum. Furthermore, the new grass cutting contractor did not start until later in the year, meaning several grass cuts for the whole village were done by volunteers, leading to additional cost savings. These factors combined to result in lower-than-normal expenditure for the year This average has led to the paths being neglected and the poor maintenance of other public areas. An additional £2.5K to 4.5K pa for maintenance would be needed to ensure upkeep of the paths and public areas.	
HBO Sports and Community Club The HBO Sports and Community Club is a charitable company limited by guarantee, i.e. there are no shares. It was previously known as the HBO Village Green Co. and changed its name on 10th December 2014. This charitable company (number 07137376) was established by the parish council on 26th January 2010 for the purposes of taking over the lease of the village green and managing the facility on behalf of the community of Hatfield Broad Oak as defined in the lease. Although established by the parish council, the charity is, by definition, an independent company and could not be a 'subsidiary' of the parish council. The original directors were Richard Broad (councillor), Keith Artus (councillor) and Mark Strutt (member of the public). Richard Broad Resigned on 5th June 2013. Keith Artus resigned on 9th December 2014. Other Previous directors have been: Alexandra Hayward (representing HBO Brownies) With the charity change of name came the addition, by invitation, of directors representing the sports clubs of the community, together with others. The Current Directors are: Vanessa Ambler James Leighton (representing Kung Fu Club) David Milne (representing the Senior Football Club) Steven Munday (representing HBO Cricket Club) Christopher Roberts Mark Strutt Councillors with a relationship with the charity are Mark Strutt. All councillors declare their interest at all relevant council meetings. It is a requirement of the Charity commission that directors with other responsibilities must hold the interests of the charity first, however Councillor Standards requires councillors to register their other interests and must not participate or vote on issues or matters where there	

is a conflict of interest. Any councillor who is not a director but has a sports club conflict is also barred from participating in any vote on the sublease. Charities can own leases on property and run facilities on behalf of the public good. The directors of the charity are all volunteers and do not and will not receive any remuneration for their roles. Likewise, there are no personal financial gains for any parish councillor. It has been reported that David Milne has been approved as charity treasurer. Any councillor with a declared interest in the subject matter which is a conflict will not take part in any discussion or vote on any such matter.	
HBO Sports and Community Club Viability and Fund Raising The charity does have access to grant funding through sports bodies and funders that do not make grants to local authorities. Examples are the grants already obtained for the village green maintenance equipment and the proposed pitches maintenance programme. The proposal is for the charity to receive an annual sum from the parish council for the <u>complete maintenance of the village green as a public space</u>. Any contribution from the council would be paid quarterly. This cost will be index linked to inflation. Should the charity raise enough funds or be more efficient than the council with the maintenance costs, any surplus will be returned to the council. The final figure will be agreed upon by the Council at a full council meeting when considering the Heads of Terms. The sports clubs will pay the charity a nominal fee for pitch usage and the cricket club will continue to maintain the cricket square. The sports clubs will contribute to the charity in line with what they are already paying. Across the 2023/24 season a combined £8060 was spent on pitch maintenance (£5100 by Cricket Club and £3060 by Youth Football Club). The football club secured a long-term grant initially for 2 years of £6.7K for additional basic pitch maintenance that is currently not happening. This is in addition to over 800 volunteer hours a year contributed by the various clubs towards ongoing maintenance. The sublease will hold the charity to specific quality measures included in the headlease and should it fail to do so, will be subject to corrective or remedial measures and ultimately revocation of the sublease if all measures fail. The process of due diligence is underway and ongoing. Legal advice is being sought by both the charity and council. The parish clerk role is to make sure the council decisions are legal. The council have looked at various other councils recently and over the years. The PC has been in discussion with the charity about the provision of a full and detailed business plan as part of its due diligence procedures.	
Tractor and Assets Prior to the purchase of the tractor and other equipment the parish council appointed a contractor, through a tender process, to execute the grass cutting. The football club obtained a grant of £23675.25, which was granted to the parish council towards the purchase of the tractor for £29477.00. The council then engaged self-employed individuals to operate the	

	machinery. The council's contribution to the tractor assets was approx. £6,000 and it has saved approx.£8,000 in grass cutting costs since its purchase. Should the lease go ahead the assets will be granted to the charity at nil cost to the council.	
	Pavilion The parish council, after a supportive public consultation in 2012, obtained planning permission for the community pavilion, access road and parking on the green. This planning permission is live and valid. This design, or one within that envelope and updated to suite the latest sports and safeguarding legislation and requirements of the official sporting bodies, will be used to seek grant funding for its construction. The pavilion is designed to be built in phases according to need and funding raised. The design of the pavilion internals have not been finalised. The charity will raise the funding for the construction of the pavilion and all services to and from it. This removes a major financial cost from the councils' budget and major project from the council's workload. The pavilion is NOT a village hall but does contain an area that can be used for indoor activities. It is not meant to conflict or compete with our existing village hall. The pavilion will be run, funded, managed and maintained by the sports clubs and the community charity, including any booking services. The pavilion will be used by the sports and activity groups, both outside and inside the hall area. The pavilion will also be available to any village group, organisation or group of individuals that wish to use or hire it for any event or programme that the village hall cannot accommodate. Bookings will be taken according to demand and cost; however, activities will most probably be governed by the event licensing criteria of Uttlesford District Council. The scouts currently have their own building, but if they wished to use the pavilion, as indeed might the village school, this is perfectly acceptable. Once the pavilion is built it will include a geogrid parking area and roadway to alleviate parking in the High Street. This was part of the original plans and planning permission.	
	Sports Clubs Questions were asked about the sports and football clubs, including the number of members/players, finances, fees and goals. These questions are best addressed directly to the clubs or the charity, although will be made available in the charity's business case.	
	Parish Council and Finances The parish council's annual budget is published and voted upon each year when HBO's element of the council tax is set. The council allocated reserves are published with the budget and annual and monthly accounts. The council's reserves policy is a public document. All of the council's finances are accountable and transparent and checked by the auditor every year once the accounts are submitted in May. Additionally, all expenditure is recorded monthly within the minutes. Any expenditure over £500 can be viewed online through the Parish	

Council website under Finances. Rightly or wrongly, there is no legal requirement for the council to seek a referendum or consultation on any of its spend, but there is a requirement to comply with its own financial regulation and national law. All spend and spend proposals are published and publicly available. The parish council can of course consult on any proposals it may be considering. All parish council committee and council meetings are in public. Working Group meeting can be closed or public depending upon the subject matter to be discussed, for instance, quotations, specifications, legal matters and ideas etc. Working Groups can and do have members of the public as contributors, for instance the Planning Working Group etc. All parish councils are required to maintain a General (Contingency) Reserve for unexpected costs or liabilities. Councils assess potential risks and uncertainties to determine the appropriate level of general reserves. It is nationally recommended that councils maintain their general reserve at a level between three and twelve months net revenue expenditure. HBO PC's General Reserve will be stabilised at 4-6 months revenue as, with the village green sublet to the charity, its liability exposure is greatly reduced. Managing the village green imposes a considerable cost and resource burden on the PC. Most months there is a least one additional committee meeting and various working group meetings as necessary. Our new clerk has identified that answering the many FoI requests is time consuming for a small parish council, of which the majority relate to the village green. Likewise, communications and indeed documentary and contract work, as well as management of contractors is considerable for the volunteer whole council. It could be estimated that several thousand pounds of council costs could be eliminated through the granting of a sublease.	
Meetings <u>Working Groups</u> The Village Green Working Group consists of Cllr Artus, Cllr Beadle, Cllr Brown, Cllr Craig, Cllr Hunt, Cllr Murphy, Cllr Strutt and Cllr Webb. The working group is large enough and has the skills required at this time. The Heads of Terms working group consists of Cllr Artus, Cllr Beadle and Cllr Hunt from the council and Mr Munday and Ms Ambler from the charity. All councillors were given the opportunity to join this working group. <u>April 22nd Presentation by the Charity to the Open Spaces WG</u> The presentation shared with councillors was given at the Charity's recent public meeting and is now available online on their website at https://hbo-sports-community-club.co.uk <u>May 2024 PC meeting</u> The council unanimously approved exploring the possibility of a sub lease to further understand if it was possible to fulfil the principle of the original land swap, save the parish council money, massively reduce the parish council workload, remove the need for parish	

	council to fund a pavilion, improve the maintenance of the green, and provide stability for everyone. The attendance at the meeting was in accordance with council rules and procedures. The background paper regarding the presentation that was circulated to councillors arrived after the agenda was produced so was not put on our website at the time.
	Village Green Miscellaneous <u>Temporary Facilities</u> The parish council voted to allow the clubs to install a temporary facility, it is not itself committed to installing one. If the clubs go ahead with this, how they propose to connect services is a matter for them to finance. <u>Artificial Pitches</u> There are no plans for artificial pitches. <u>Grass Cutting</u> The council did not put the grass cutting out to tender. It appointed a sub-contractor to do the grass cutting having interviewed the two possible sub-contractors. <u>Capital Projects</u> Some of the capital projects the PC are considering at the Village Green, are obligations under the current lease and some are to make the village green more accessible after a decade of failing to maintain paths. The PC has for many years committed reserves to upgrading the pitches with a ring drain, with the remainder of the cost being met by the Football community. <u>Electrical Quote</u> The parish council has not requested or received any quotes for the electrical services for new pavilion or to a temporary structure.
	Independent Investigation The investigation into the previous parish council's infighting cost the tax payers tens of thousands of pounds from the UDC budget. It was UDC's decision to spend the money and to the methods used to investigate any internal issues and complaints. The parish voted for the current councillors in May 2023 and as such a new council was formed. The parish electorate made their decision on which councillors they wanted, with two additional councillors, Cllr Brown and Cllr Hunt being co-opted after two candidates who were voted on by the electorate, chose to not take their seats.
	School The parish council has resolved to assist the local school by undertaking the maintenance of its grounds, specifically by cutting the grass. The school's current enrolment is so low that it faces challenges in maintaining its premises. The parish council is committed to ensuring the village retains its school and is eager to support its recovery and growth.

Summary Benefits of the Village Green Sublease

- Removing Workload from the council
- Enabling the Parish Council to focus on the rest of the parish
- Potential to save the Parish Council money
- Building the pavilion with no financial cost to the Parish Council
- Limiting the Parish Council financial exposure
- No more risk to the Parish Council than it already has.
- Regular and consistent maintenance of the village green
- Higher standard of maintenance of the village green
- Stability for the village clubs
- Fulfilling the Landlord and parish council original management strategy.

We hope this document answers and addresses the questions and concerns raised by parishioners to the Parish Council. If there are additional questions or if you feel your question was not addressed, please email the clerk at **parishclerk@hatfieldbroadoakpc.gov.uk**.

This document was reviewed by all councillors and the clerk via email, with input and suggestions provided by everyone.