

From: Derek Murphy, Cabinet Member, Economic Development  
Simon Jones, Corporate Director of Growth, Environment and Transport

To: Growth, Economic Development & Communities Cabinet Committee - 16 May 2023

Subject: **Cyclopark Operator Agreement**

**Key Decision** **23/00047**

Classification: Unrestricted

Past Pathway of paper: N/a

Future Pathway of paper: Cabinet Member Decision

Electoral Division: All

**Summary:** Cyclopark is a unique 43-acre sports and community facility built on redundant land made available because of the realignment of the A2 trunk road south of Gravesend and opened in May 2012 as a legacy project to the London Olympic and Paralympic Games.

The park is owned by KCC and operated on KCC's behalf by a charitable trust (Cyclopark Trust) specifically established for the purpose. KCC entered into a contractual agreement with Cyclopark Trust, the 'Operator Agreement,' covering May 2012 to 26 May 2022 (10 years) which covers lease of the land, commuted sum funding from (the then) Highways Agency and wider funding and operating arrangements.

A new deed of variation (retrospective) is required to extend the agreement for a further 10 years for the Cyclopark Trust to continue to operate the venue on behalf of KCC. This is possible under the Section 31 (31.2) of the Operator Agreement.

Work commenced October 2021 with Invicta Law Limited. A draft Deed of Variation for review was received 29 April 2022 and circulated to Cripps solicitors acting for the Cyclopark Trust. Comments were received back, and a final version was agreed in principle 29 June 2022. It has not been possible to bring this for decision until now during which time KCC continued to support the Trust during 22-23 under the same terms as stated in the original Operator Agreement to ensure continuity of service provision.

Changes to the Operator Agreement require a Deed of Variation to be approved by both parties.

**Recommendation(s):**

The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Economic Development:

(a) to approve a retrospective Deed of Variation to the Operator Agreement between KCC and Cyclopark Trust for the operation of the park and continuation of KCC financial support for the period 27 May 2022 to 26 May 2032 (10 Years) and;

(b) that authority be delegated to the Director of Growth and Communities to take appropriate actions in accordance with the terms of the Operator Agreement as necessary to implement this decision

as shown at Appendix 1.

## 1. Introduction

1.1 Cyclopark is an important community asset, physically positioned in one of the areas of the county with the highest levels of inactivity and in an area of high deprivation.

[https://www.kent.gov.uk/data/assets/pdf\\_file/0006/7953/Indices-of-Deprivation-headline-findings.pdf](https://www.kent.gov.uk/data/assets/pdf_file/0006/7953/Indices-of-Deprivation-headline-findings.pdf)

1.2 The Operator Agreement was put in place for 10 years (May 2012 to 26 May 2022).

1.3 A Deed of Variation to the Operator Agreement was agreed in December 2015 (non-key decision) to transfer the lease of two additional land holdings to further develop the facility and to enable the Cyclopark Trust to draw down the commuted sum allocated for the upkeep of this land.

1.4 Prior to the expiry date of the Operator Agreement, the KCC Strategic Programme Manager discussed the potential to extend the agreement for a further 10 years with Head of Service and the Cyclopark Trust.

1.5 This is possible under the Section 31 (31.2) of the Operator Agreement: “Prior to the expiration of the Initial Contract Period, the Council may, in its absolute discretion, offer the Operator an extension of the Contract for a period of ten (10) years from the date of expiry of the Initial Contract Period (“the Subsequent Contract Period”). In the event that the Operator notifies the Council of its acceptance of the extension, the Contract shall continue during the Subsequent Contract Period on the same terms and conditions as existed during the Initial Contract Period and shall remain subject to termination by the Council pursuant to the Council’s right under Condition 28 (Termination)”.

1.6 The KCC Strategic Programme Manager wrote to the Cyclopark Trust (17 January 2022) to seek confirmation from the Cyclopark Trust that they would accept the offer to extend the Operator Agreement for a period of 10 years. This was accepted on 31 January 2022.

1.7 The KCC Strategic Programme Manager instructed Invicta Law Limited to fashion a new Deed of Variation for a further 10 Years (27 May 2022 to 26 May 2032) which has been considered by the Cyclopark Trust and agreed in principle. There is now a requirement to seek retrospective approval.

## **2. Achievements and Impact**

- 2.1 Since opening in 2012 Cyclopark has provided an inspiring and accessible place for people from all social classes to ride their bikes. From young people learning to ride through to Olympic gold medallists, the top-class facilities have provided a supportive and safe environment for cycling.
- 2.2 The BMX track is named after Olympian and BMX gold medallist Beth Shriever. John Boy Smith won a gold medal at the Commonwealth Games and trains at Cyclopark.
- 2.3 Over the last 10 years, Cyclopark has expanded and grown its support for cyclists. Introducing more healthy activities for non-cyclists and hosted many cycling events from regional races through to national championships in BMX and Cyclocross.
- 2.4 Today, Cyclopark offers dozens of scheduled activities each week as well as being open for people to drop-in to ride or exercise. In addition to this it supports disabled cyclists and pupils from local schools who may not have the opportunity to gain experience to ride.
- 2.5 During 2022-23, the Trust have:
  - Taught 434 children and adults to ride bikes for the first time;
  - Delivered 4,279 individual Health & Wellbeing sessions targeting those with underlying health conditions;
  - Delivered 2,088 disability cycling sessions using especially adaptive bikes;
  - Hosted 3 National and 6 regional cycling events as well as several community days; and
  - £1.25m estimated impact to the local economy.
- 2.6 In October 2022, Kent welcomed its first public visit from a member of the Royal family since the death of Her Majesty Queen Elizabeth II. HRH the Duke of Gloucester visited Gravesend to see examples of the physical and cultural regeneration taking place in Gravesham, which included a visit to the Cyclopark where he unveiled a commemorative plaque to mark its tenth anniversary.

## **3. Objectives and activities**

- 3.1 The Vision for the Cyclopark is to “provide a community hub, centred around cycling, for health, wellbeing, socialising and driving positive change for the lives of people in our community.”
- 3.2 The Cyclopark Trust have put in place a Four-Year Strategic Plan 2022-2026 which clearly outlines the role that the Trust can play in supporting its local community to be more active, recognising the stubborn inequalities and differences that make it harder for some to enjoy the benefits of sport and physical activity to their mental and physical wellbeing. <https://www.cyclopark.com/media/1890/cyclopark-strategic-plan-digital-version.pdf>

- 3.3 The Trust have established four core values: teamwork, trust, treating people fairly to provide exciting opportunities for the most disadvantaged and spending money wisely.
- 3.4 Over the next four years, through their Strategic Plan, Cyclopark are focussed on achieving the following key objectives:
- **Learn to ride** – support every child in our local community to be able to ride a bike before they leave primary school.
  - **Developing riders** – play a key role in training more people to cycle so they are confident using the growing number of cycle routes in our local and wider area.
  - **Engaging the community** – increased use of and participation in Cyclopark by the local community through an inclusive approach where everyone, irrespective of their background, identity, or circumstances, can access our facilities and reach their potential.
  - **Improving health and wellbeing** – offer a wide range of activities and programmes and encourage growth in visitors to Cyclopark.
  - **Events** – host and support competitive riders at regional, national, and international cycling events and celebrate their success with the local community.
  - **Cycling development pathway** – support the journey from learning to ride to a podium finish.
- 3.5 The Plan also closely aligns with Sport England’s “Uniting the Movement”, a 10-year vision to transform lives and communities through sport and physical activity with its focus on positive experiences for Children and Young People, Connecting Communities, Health and Wellbeing and Active Environments as well as supporting access to established pathways within sport and UK’s Sport’s plays around the delivery of major sporting events. <https://www.sportengland.org/about-us/uniting-movement>
- 3.6 As such the Trust is well placed to contribute to Sport England and the Government’s agenda for tackling the inequalities so intrinsically linked to inactivity through the delivery of targeted interventions and utilising emerging community partnerships to support this.
- 3.7 Sadly, many of our community face disadvantage and inequality. In the new strategy, Cyclopark aim to help local people overcome these challenges. We know that staying healthy and fit is key to a longer, happier life and we will endeavour to give as many people as possible the opportunity to get healthier and fitter through cycling and exercise.

## 4. Finance

### KCC

- 4.1 The value of the original Operator Agreement is £1,250,000 (10 years at £125,000 per annum). The annual allocation is contained in the KCC Final Budget Book 2023-24 (approved 9 February 2023, Page 58, Row 80 – Growth & Communities, Growth and Support to Businesses).

- 4.2 In addition to the annual sum under the terms of the Operator Agreement, the Trust were provided with further financial support totalling £340,000 during the financial years 2012-2016 inclusive.
- 4.3 The total value of the commuted sum as catered for in the previous Deed of Variation was £259,000. A final commuted sum payment of £48,000 was made in financial year 2017-18.
- 4.4 The KCC Strategic Programme manager confirms that since 2018-19 only the agreed sum of £125,000 relating to the Operator Agreement have been made.
- 4.5 An annual sum of £30,6000 rent is paid by KCC to Combined Property Control (freeholder of land which is not owned by KCC which is under a 50-year lease agreement). There are 37 years remaining on the lease.
- 4.6 KCC re-charge £30,6000 rent to The Cyclopark Trust. Therefore, nil cost to KCC.
- 4.7 When the original decision was taken in November 2010, the supporting report stated: "The £125k per annum will be required in the longer term for a period of at least 25 years and is part of the financial viability forecasting for the project. The financial viability is necessary not only to the future success of the park but is also required by some of the funding partners as a condition to their capital funding towards the project."
- 4.8 Acknowledging that the original decision was taken some 13 years ago, the KCC Strategic Programme Manager has in discussion with the Cyclopark Trust agreed to the following clause being included in the proposed Deed of Variation (Appendix A):

"The Council agreed to make available, solely upon its discretion, to the Operator funding of up to £125,000.00 (one hundred and twenty-five thousand pounds) per annum for the new extended Contract Period referred to in Recital (C), which shall be made available at the sole discretion of the Council, who shall not be obligated to pay".
- 4.9 This means the funding is not guaranteed and is subject to normal County Council MTFP processes. It also aligns with the aspirations of the Trust to increase their profitability going forward and to seek alternate funding where applicable and not be solely reliant on KCC subsidy.
- 4.10 There is a requirement within the Operator Agreement that the Trust make available to KCC its annual accounts. This gives KCC an opportunity to review, discuss with the Trust and factor any savings required into the MTFP process for future years without necessarily over complicating the Operator Agreement, as stated in 4.8.
- 4.11 So long as the Trust are given sufficient notice, for example 6 months prior to the commencement of the following financial year, that funding could or will be reduced by an agreed value, then this will be part of the annual review by KCC.
- 4.12 There is no current allocation within the KCC Capital Programme for new infrastructure on site. The Trust are responsible for general repairs and maintenance of the site, tracks and property as stated in the Operator Agreement. There is a requirement to build a "sinking fund" to cover such costs.

4.13 However, some of the original fencing around the site is no longer fit for purpose and continues to be repeatedly damaged following repair. The Trust must then deal with the removal of abandoned vehicles (cars or motorbikes). This also triggers complaints from residents which need to be managed. The Trust and KCC Strategic Programme Manager are currently exploring options for a more robust alternative solution but that would come with a cost.

### **Cyclopark**

4.14 The Cyclopark Trust has 36 employees, 11 volunteers and 9 Trustees.

4.15 The Trust has submitted its annual returns, accounts and trustees' annual report (TAR) for the last five financial periods on time. The most recent return for the period ending 31st March 2022 was submitted on 1 November 2022. The accounts are independently verified by Kreston Reeves (specialism in Charitable Trusts).

<https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/5022992/charity-overview>

4.16 The table below shows income and expenditure over the last 5 financial years:

Income / Expenditure	31/03/2018	31/03/2019	31/03/2020	31/03/2021	31/03/2022
Total gross income	£ 1,010,000	£ 888,230	£ 1,050,000	£ 753,780	£ 1,090,000
Total expenditure	£ 890,660	£ 986,880	£ 957,480	£ 690,470	£ 993,790
Net	£ 119,340	-£ 98,650	£ 92,520	£ 63,310	£ 96,210

4.17 Whilst the above shows a modest net surplus each year except for the year ending 31<sup>st</sup> March 2019, the Trust along with other operators of leisure activities are facing increased energy costs.

4.18 Whilst the audited accounts for the financial year 2022-23 are not yet concluded, the Trust have reported to the KCC Strategic Programme Manager that they expect to break even. However, the value attributed to rising electricity charges are some £40,000 for 2023-24.

4.19 The venue remained open during the pandemic due but did suffer a drop in membership. The current economic climate is also a contributing factor as individuals counts their pennies. However, membership is on the increase following a revision to entrance and membership fees to ensure the venue remains an attractive location for the local community.

4.20 The trust is currently investigating the potential for a modular build on site, which would require planning permission as it is a temporary building. However, if approved then this will facilitate more capacity for an increased membership base, provide more fitness classes and generate more revenue, which would contribute to the upkeep of the infrastructure and give the opportunity to review the KCC subsidy in future years.

4.21 Hosting national events (sporting and non-sporting) is another way the Trust are successfully generating income as well as seeking out other funding opportunities, such as Office for Health Improvement and Disparities (formerly Public Health England).

## 5. Equality and Diversity

5.1 The Trust have their own EqIA checklist and statement (Appendix B and Appendix C).

## 6. Information and Governance

6.1 The Trust is currently updating their Privacy Policy to comply with the General Data Protection Regulation (GDPR), and this will be published at <https://www.cyclopark.com/>

6.2 The Cyclopark Trust is a registered charity number 1144915 (05 December 2011). There are 9 trustees who are responsible for controlling the work, management and administration of the charity on behalf of its beneficiaries. <https://register-of-charities.charitycommission.gov.uk/charity-search/-/charity-details/5022992/trustees>

### Monitoring

6.3 The KCC Strategic Programme Manager is the current point of contact with the Cyclopark Trust regarding the Operator Agreement. Meetings are held with Simon Jones, Chief Executive of the Trust and Kim Lloyd, Chair of the Trust either virtually or in person. The most recent meeting took place at Cyclopark on 6 April 2023 and attended by the Cabinet Member for Economic Development.

6.4 Section 5 – Measuring Success (Cyclopark Four Year Strategic Plan 2022-26) illustrates the Key Performance Indicators (KPIs) which are now in place and relate directly to operational deliverables and its overall strategic goals. This is the culmination of an internal review following the appointment of new trustees.

AREA	OUTCOME	IMPACT GOAL
Ride	A significant increase in the number of Gravesham children riding bikes prior to leaving primary school.	More people cycling more often is great for the environment and provides essential skills for life and a better wellbeing.
Coaching & activity	Increased number of children and young people from disadvantaged backgrounds participating in cycling and other Cyclopark activities.	Reduce health inequalities in the community and increase activity and opportunity for those most disadvantaged.
Disability	More people with disabilities riding bikes more often.	Improved health and wellbeing for all regardless of physical or mental disabilities. Allowing for greater independence and sense of achievement.
Elite events	The delivery of first class regional, national and world cycling and sporting events.	Improved reputation, commercial income opportunities and sponsorship. Creating inspired and engaged communities and increasing participation.
Diversity & inclusion campaigns % increase	We have a culture that puts diversity and inclusion at the heart of everything we do, creating a welcoming, vibrant and engaging atmosphere for all users.	More people using our facilities from traditionally hard to reach groups, providing a greater customer base, increased brand loyalty and a sense of community.
Health & wellbeing	A programme of activities designed to improve the health and wellbeing of our community including those with underlying health conditions.	Improved health and wellbeing for our members and community. Reduction in lifestyle-related diseases for those taking part.

<https://www.cyclopark.com/media/1890/cyclopark-strategic-plan-digital-version.pdf>

- 6.5 The KPIs will help appreciate the outcomes and impact of the Trusts strategic objectives based on the volume of take-up in the above areas.
- 6.6 The performance of Cyclopark is monitored by the Strategic Programme Manager and reviewed by the Growth and Communities Divisional Management Team.
- 6.7 This report as well as providing an update seeks the agreement for a retrospective Deed of Variation to the main Operator Agreement for a period of another 10 years to May 2032 and seek authority be delegated to the Director of Growth and Communities to take appropriate actions in accordance with the terms of the Operator Agreement as necessary to implement this decision.

## **7. Policy**

- 7.1 Framing Kent's Future is the Council's strategic plan for 2022 to 2026, setting out the priorities over the next and how to tackle the challenges and make the most of the opportunities that the county is facing. Cyclopark supports the Interim Strategic Plan working with a range of partners including KCC, Gravesham Borough Council, NHS England and British Cycling making a valid contribution to three of the four priorities, namely:

- Priority 1 – Levelling Up
- Priority 3 – Environmental Step Change
- Priority 4 - New Models of Care and Support

- 7.2 The Trust is committed to work with its partners to hardwire a preventative approach into improving the health of Kent's population and narrowing health inequalities. A vital component of levelling up Kent is taking action to narrow the gaps in health outcomes by supporting people to lead healthier lives.
- 7.3 Cyclopark Trust's Strategic Plans focuses on achieving the following key objectives:

- Learn to Ride
- Developing Riders
- Engaging the community
- Improving health and well being

## **8. Conclusion**

- 8.1 Cyclopark is unique. There is nothing comparable in the UK and due to its location is attracting visitors from all parts of the UK and visitors from overseas. As a prominent local charity, it is making a tremendous impact on the health and wellbeing of people in our communities and producing world class medal winning athletes.
- 8.2 The sports and leisure industry has faced challenging times with the closure of local amenities. The staff and trustees of the Cyclopark are enthusiastic about their roles and responsibilities and very much focused on the future.



- 8.3 Cyclopark are especially grateful for the support of key partners, staff, volunteers, and members over the last ten years and look forward to further strengthening these relationships over the coming years.
- 8.4 The Trust are committed to seeking out new projects to deliver in the area, working with:
- Stakeholders (Asset Based Community Development)
  - Partnerships – Local Community Groups, Local Government, Ebbsfleet Development Corporation and businesses.
  - Public Health – DGS Physical Activity, Environment & Transport subgroup.
- 8.5 The Trust seek to maximise positive publicity. For example, the opening two rounds of the 2023 National BMX Racing Series at Cyclopark were broadcast live on You Tube thanks to British Cycling teaming up with BMX Race Hub.

<https://www.britishcycling.org.uk/about/article/20230403-Challis-secures-back-to-back-wins-as-Isidore-and-Moore-battle-for-podiums-at-National-BMX-Series-0>

- 8.6 Continued financial support under the new deed of variation to the Operator Agreement will allow the Trust to further their ambitions to become self-funding. The clause incorporated into the proposed Deed of Variation (4.6) recognises this and reinforces the point that the funding available is at the discretion of KCC and not a guarantee.

## **9. Recommendation(s):**

- 9.1 The Cabinet Committee is asked to consider and endorse or make recommendations to the Cabinet Member for Economic Development:
- (a) to approve a retrospective Deed of Variation to the Operator Agreement between KCC and Cyclopark Trust for the operation of the park and continuation of KCC financial support for the period 27 May 2022 to 26 May 2032 (10 Years) and;
  - (b) that authority be delegated to the Director of Growth and Communities to take appropriate actions in accordance with the terms of the Operator Agreement as necessary to implement this decision

as shown at Appendix 1.

## **10. Appendices and background documents:**

Appendix 1 – Proposed Record of Decision

Appendix A – Draft Deed of Variation V4 prepared by Invicta Law Ltd

Appendix B – Equality Impact Assessment Checklist

- [Appendix B EQIA Cyclopark Checklist.pdf](#)

Appendix C – Equality Impact Assessment Statement

- [Appendix C EQIA Cyclopark Statement.pdf \(kent.gov.uk\)](#)

Links for previous key decisions:

- November 2010: 10/01494:  
<https://democracy.kent.gov.uk/documents/s14598/ROD.pdf>
- August 2011: 11/01721:  
<https://democracy.kent.gov.uk/documents/s18636/11%2001721%20Record%20of%20Decision.pdf>
- December 2015: Non-Key Decision  
<https://democracy.kent.gov.uk/mgDecisionDetails.aspx?Id=34882&Opt=1>

## **11. Contact details**

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