1. **Summary Statement**

1.1 The Council has been approached by a developer who wishes to enter into an option agreement with the Council for a period of 12 months whilst he undertakes additional detailed feasibility work to develop a major regeneration scheme on lands owned by the Council off Junction 2 on the M5. The scheme would bring forward for development 19ha of land that is currently used for recreational purposes but is of very poor quality. As part of any development package the loss of existing playing pitch provision will need to be re-provided to an appropriate quality and to meet demand.

1.2 Preliminary work by the developer has indicated that the site could physically accommodate significant development. However, additional work is required to assess the sites capacity of accommodating 300,000 sq ft of retail development. In addition, there are a number of major hurdles that will need to be overcome before development can come forward. These include legal covenants: that have been put in place in favour of the National Playing Fields Association and the Charity Commissioners to protect the playing pitches, traffic generation issues, the unknown ground conditions and the location of such a development out of centre which is not in accordance with adopted planning policy of the Council.

1.3 In order to assist with the potential transportation solutions that may be required a high level study into the capacity and impact of a regional retail centre in this location has already been commissioned and its results will dovetail into the assessment of this development proposal.
1.4 The purpose of this report is to provide the developer with an option agreement so some of the above issues can be investigated further in order to assess viability. Although there are a number of policy and legal issues that need to be resolved in order for the proposal to become deliverable, there are major benefits from a regeneration perspective to be gained. Such a proposal could deliver significant employment opportunities for the local community, plus wider investment and improvement to recreational facilities.

1.5 The site includes the Birchley Social Club which has been a financial drain on resources of the Council for a number of years. Should the scheme progress these facilities will be re provided by the developer with the new playing pitches elsewhere within the Borough. However, the vision for the larger site will dictate what options can be considered for the social club, perhaps with an interim solution to minimise the Council’s outgoings.

Further details are attached for your information

2. **Recommendations**

2.1 That the Director - Legal and Governance Services be authorised to prepare and complete an option agreement for a period of 12 months from the date of the agreement with Jeremy Knight Adams of Hampton Properties in relation to Lion Farm Playing Fields Oldbury on terms and conditions to be agreed with the Area Director – Regeneration and Economy.

2.2 That, subject to 2.1 above, at the end of the option agreement, or sooner if appropriate, a report will be brought to Committee to provide an update on the results of the feasibility studies.

2.3 That authority be delegated to the Area Director - Regeneration and Economy to extend the 12 month period referred to in 2.1 for a further 12 months.

**Nick Bubalo**
Area Director – Regeneration and Economy

**Neeraj Sharma**
Director – Legal and Governance Services

**Stuart Kellas**
Director – Strategic Resources
Contact Officer
Peter Yeomans
Group Manager Property Services
0121 569 3906

3. **Strategic Resource Implications**

3.1 It is likely that there would be a capital receipt for the council from the disposal of 19ha of open space. However, this is likely to be reduced through the appraisal process since to bring the site forward for development the developer will incur significant development costs. These will include, reclamation costs, off site and on site highway works, pylon diversion costs and the re provision of playing pitches elsewhere in the Borough.

4. **Legal and Statutory Implications**

4.1 There is no restriction upon a Council engaging in exclusive discussions with one party in respect of the disposal of Council owned land provided that the relevant legislation governing disposals is adhered to (see below). However, it would be best practice to ensure reasons for taking this approach are recorded in writing and full justification is given.

4.2 Pursuant to Section 123 Local Government Act 1972, a Council may dispose of land provided it is for the best consideration that can reasonably be obtained. If it is proposed that it is to be sold for less than the best consideration, then Secretary of State’s consent will be required. It is understood that market value will be achieved, subject to paragraph 3.1.

4.3 The only requirement to advertise is in relation to open spaces. Section 123(2A) requires a local authority wishing to dispose of open space under those powers to advertise its intentions in a local newspaper for two consecutive weeks and to consider objections. The Council should carry out these procedures before making any final decisions about disposal as the public response to the notices may be material to any such decision.

4.4 If part of the site constitutes a “playing field” within section 77 of the Schools Standards Framework Act 1998 then the consent of the Secretary of State will be necessary prior to disposal.

4.5 The site is subject to covenants in favour of National Playing Fields and the Charity Commission. From experience, when the Council has applied to National Playing Fields Association for their release to a deed of covenant, such a release has been forthcoming, but the Council has had
to offer up land by way of substitution. Similarly, the Charity Commission has accepted land by way of substitution. This is important to consider particularly with regard to the National Playing Fields Association as their requirement may be that they may seek a substituted area of land larger than that which is proposed to be released. The Charity Commission may have different requirements.

5. Implications for the Council’s Scorecard Priorities

5.1 Great Place
Currently the site is used a public open space and provides ten playing pitches the demand for which is declining. Should this development come forward then the required public open space will be re provided elsewhere within the Borough. Once redeveloped the site has the potential to provide significant employment opportunities for local people.

5.2 Great People
The details of the proposed development at Junction Two are currently at an early stage and it is not possible to provide detailed implications with regard to the impact on local people, however, if the scheme ultimately comes forward then it will provide much needed employment opportunities and investment in the area.

5.3 Great Prospects
The comprehensive development of the Lion Farm playing fields will assist in the delivery of great prospects through the redevelopment of this strategic site fronting Junction Two on the M5 Motorway. The redevelopment will provide investment, job creation and assisting in providing great prospects for local people.

6 Background Details

6.1 The Council has been approached by Jeremy Knight Adams who is a local developer with a track record of delivering Sainsbury’s Supermarkets in the West Midlands. He brought forward the supermarket in Selly Oak Birmingham and is personally the current owner of the supermarket at the Maypole on the A435 for which he receives over one million pounds rent. Clearly these developments require significant development finance.

6.2 This developer has a desire to develop the current Lion Farm playing fields as a regional factory outlet centre. Whilst this investment is welcomed by the Council currently there are a number of policy hurdles to be over come. The site is not within a designated centre and therefore, the proposal is not in accordance with current adopted planning policy. The public open space currently has a number of legal covenants in place to protect the open space.
6.3 Notwithstanding the above there would be a significant number of jobs created, capital receipts and in the longer term business rates payable to the Council.

6.4 In order to release the development potential of this site it will require a concerted effort by the Council due to the current development constraints that have been put in place to protect the playing fields.

6.5 Issues that will need to be addressed will be the need for highway access on to the Strategic Highway Network and the associated traffic impacts, the remediation costs to make the land developable, the views of the Highway Agency since the development will place additional load on Junction Two of the M5 motorway and the views of Sport England. In addition the Council has a duty to consult with neighbouring local authorities.

6.6 Further consultation with Central Government will also need to be undertaken with regards to the application of the approved retail policy of the local planning authority and its application to this particular potential planning application.

6.7 It is recognised that a major component of the assessment of the traffic generated by the development and the cost of the proposed amelioration works on the local highway network. In order to assess the highway implications a high level capacity study has been commissioned to assess the impacts of a major retail led scheme on the Lion Park open space.

6.8 Whilst the above list of issues is significant, there is merit in progressing the development proposal to see if the major out puts and out comes can be delivered on the Lion Farm, Oldbury.

6.9 In recent years the playing fields and pavilion have been a major drain upon decreasing budgets of the Council. The original arrangements for the pavilion have proved to be unworkable and the pavilion’s management is now the responsibility of the Council.

6.10 However, in order to ameliorate the potential impediments to development the developer has requested that a twelve month option agreement be entered into between himself and the Authority. This will permit Jeremy Knight Adams to resolve the significant unknown development costs and will also permit council officers to work with the developer to see if the current constraints can be removed to permit the development to come forward.

6.11 After the option period has expired the Council will know if development is capable of being progressed or if the constraints are too great and development is not possible.
6.12 There has been interest from a number of prospective parties for the Birchley Social Club, even though the facility has not been formally marketed. The interest is based largely on leasing the social club for a variety of different uses ranging from sporting, music, and restaurant/bar to a wedding venue. However, all interested parties would seek a lease of at least five years and a rent free period due to the associated capital costs with refurbishing the building. However, if the greater scheme progresses then the building will be demolished and the facility re-provided elsewhere at the developers expense.