

Committee: Cabinet

Date of Meeting: 16 September 2026

Subject:	Disposal of land in Oaken Lane, Claygate, Esher
Lead Officer:	Deputy Chief Executive
Portfolio Holder:	Portfolio Holder for Leisure, Culture and Commercial Strategy
Link to Council Priorities:	Sustainable, Thriving, Community
Exempt information:	None
Delegated Status:	For Decision
Key Decision:	No

Executive Summary:

The council recently regained possession of the Oaken Lane playing fields in Claygate which had previously been leased to the Trustees of the Elmbridge Eagles Rugby League club. In 2016, the Trustees obtained planning permission to undertake improvements to the pitches. As part of those works, the Trustees obtained planning permission for the importation of soil onto the site. However, in 2018, approx. 32,696m³ of soil was imported, significantly exceeding the quantity permitted and rendering the playing fields unsuitable for sporting use. Consequently, Elmbridge Eagles have been unable to use the site for playing purposes since 2018.

For several years the council has devoted significant time and resources to working with the Trustees to identify a viable solution. However, the Trustees were unable to secure the financial or operational means necessary to remedy the situation. Consequently, the council accepted a surrender of the lease with effect from the end of June 2026.

The council's objective is to restore the site to productive leisure use and ensure it continues to provide a long-term benefit to the Elmbridge community. A number of leisure operators have already made early approaches to the council to express an interest in the site. The council has not undertaken any active marketing for the site to date.

This report sets out a proposed approach to market the site for leisure and recreational uses and to dispose of the land on terms that secure the removal of the excess soil, facilitate the restoration of the site, and deliver the best overall outcome for both the council and the wider community.

Recommended: that

- (a) Note the update and the plan for a way forward;**
- (b) Delegate authority to the Strategic Director to market the site for leisure and recreational uses;**
- (c) Note the establishment of an Informal Member Steering Group to be consulted on the bids received from the marketing exercise;**

- (d) Delegate authority to the Strategic Director (in consultation with the Leader, Portfolio Holder, Monitoring Officer and Chief Finance Officer) to accept the bid which reflects best consideration for the council and meets the council's aspirations for the site; and**
- (e) Delegate authority to the Head of Legal and Governance to deal with any consequential agreements to give effect to the council's preferred bid.**

Report:

Background

1. The council's 2.43 hectares of land at Oaken Lane, Claygate has been in use as a sports ground since 1958. The site was formerly used by Old Johnians Rugby Club, but Elmbridge Eagles Rugby League (RL) have been playing at the site since approximately 2006.
2. Elmbridge Eagles RL team are strategically important in sporting terms as one of the few Rugby League teams in the Southeast of England. They provide rugby league opportunities for U7s through to 16yrs+ with disability and girls teams.
3. To support their continued growth, the club was successful in applying for Sport England funding (Protecting Playing Fields) in 2013. The funding was awarded to carry out pitch improvements to upgrade the playing surface on the two rugby pitches and improve the drainage to increase the number of games the ground could carry each season. As the ground is largely clay based, the ground does not naturally drain well and led to a number of cancelled matches.
4. Essentially the funded project was to install new drainage below a new layer of topsoil to create a new, well drained playing surface over two rugby pitches.

Playing pitch improvement project

5. Planning permission was granted (application 2016/2040) for "Upgrading of playing surface including importation of recovered soils and re-surfacing of car park" on 28 October 2016. A link to the full details of the planning application is [here](#).
6. There was a further application in 2018 (2018/3085) for non-material amendments to planning permission 2016/2040 to change the drainage layout and design which was granted on 11 April 2019.
7. Under the permission (2016/2040), soil material was imported onto the site and deposited to create the pitch area. It was controlled under an EA permit EPR/EB3803UQ issued to New Era Recycling Limited, which allowed for the import of less than 15,348 m³ of material, with quality control checks contained within the permit including evidence of origin and quality of material

before import and quality checks and sampling once on site. Discharge of the permit from the contractor was required following completion of the permitted operation.

8. Works commenced on site in July 2018 with the club retaining responsibility for project management of the scheme, the site contractor and EA permits. Concerns were initially raised in November 2018 by residents and councillors about the nature and extent of material being brought onto site. Officers sought further assurances and clarifications from the tenant.
9. Following an Extraordinary General Meeting, the club confirmed that the management committee (who initiated the project) was being replaced with a new interim management committee. Legally, however, the Trustees remained in situ and retained liability for the site as tenants.
10. Work stopped on site due to inclement weather during December 2018 with further information requested by officers prior to the works being permitted to restart under landlord's consent. These assurances were not received from the club, Trustees or contractor, and the project never restarted.
11. The following issues were identified:
 - Approximately 32,696m³ ±4,556m³ of soil material was imported onto the site, circa 17,348m³ (113%) in excess of the quantity allowed under the EA permit.
 - Very limited information regarding the origin and quality of much of the imported material was provided. A reliable account of the history of the materials does not exist.
 - No continuous sampling or validation of the material was undertaken by the club or contractor following import and placement on site.
 - The EA visited the site as part of the permit requirements on one occasion. During that visit, Asbestos Containing Materials (ACMs) were identified by the EA Officer in an imported load. Although this load was rejected, it cannot be confirmed that other loads did not contain (ACMs).
 - The EA permit has not been discharged.
 - The Contaminated Land condition included with grant of planning 2016/2040 has not been discharged.
12. In the absence of any information from the operator (New Era Recycling Limited), the council commissioned a site investigation to obtain some information on potential contaminant levels within the imported material.
13. The investigation found:
 - a small number of non-hazardous/inert materials,
 - the quality of the soils was poor with presence of brick, concrete, scrap metal fragments,
 - In a TGMS Ltd Site Visit report, February 2020, it was noted that the covering topsoil contained a very high stone content with glass and sharp-

edged flints, making it not physically suitable for use as a sports pitch surface without any mitigation,

- Volume was calculated via topographical survey: Approximately 32,696m³ ±4,556m³ have been placed on site.

14. While the waste deposits are non-hazardous/ inert, all of the materials that have been brought to the site are now classified as waste and as there is no permit in place to allow their placement, they are all considered to be effectively there illegally.
15. In 2026 the council commissioned RSK Geosciences to provide an updated geo-environmental report. The report concluded that the recent test results were in accordance with previous results. It is not considered that any chemical contaminants are present within the made ground which pose a significant risk to site users. The report noted that over 60 investigation locations have been undertaken on site and only one isolated sample of cement bound asbestos found. It is considered that the risk posed to end users from asbestos is low. The findings suggest that material placed would meet the chemical requirements for use as a sports pitch (or similar) from a human health perspective as any potential risk to site users is considered low and any new facilities will require new surfacing to enable sporting activities. This is subject to approval of the Elmbridge Borough Council Contaminated Land Officer under the planning process.

Steps taken to resolve

16. The lease for the ground was held in the names of two individual Trustees on behalf of the club they served at the time of the grant was provided by Sports England. Although these individuals have since resigned from the club and no longer participate in the day-to-day management of the club, the legal title of the lease remained vested in the original two Trustees. In the interim, operational control of the club was handled by an 'interim management committee'.
17. Over the years, officers held numerous meetings and calls to try to resolve this situation. These have involved the rugby club, the trustees, the interim management committee, the governing body and Sport England, as well as commissioning expert environmental and legal advice at a cost to the council.
18. The council has been working closely with the Elmbridge Eagles Rugby Club, and the Rugby Football League (the governing body for Rugby League Clubs) for a number of years to support their growth and strategic position as a community Rugby League Club in the Southeast.

Current legal position

19. The council previously initiated forfeiture proceedings by serving a Section 146 Notice on the original Trustees on 3 November 2025 due to breaches of the lease terms. However, following subsequent negotiations, the council has

now successfully completed a formal Deed of Surrender with the two original Trustees.

20. The completion of the Deed of Surrender effectively terminates the lease and returns full vacant possession of the land to the council. This successfully resolves the tenancy issue without the need to progress costly and protracted court forfeiture proceedings or risk the uncertainties of peaceable re-entry. The council is now in a position to directly determine the future use or disposal of the site.
21. Separately, the council had previously issued a 'letter before action' notice to SAS Waste Limited in November 2025 regarding potential litigation for the unauthorised waste deposits. However, this action is no longer proceeding given that SAS Waste Limited has now entered into liquidation and is no longer a viable or prudent use of council resources to consider litigation against them.

Proposed way forward

22. Now that the council has regained full control of the site, it intends to return the site to leisure and recreational use. However, given the current ground conditions, significant remediation measures and substantial capital costs may be required before any leisure use can be safely achieved.
23. The council is not proposing to fund this remediation itself. It is proposing to sell the site to an interested leisure operator who can develop a use consistent with the green belt designation (see below).
24. To support bringing the site back into leisure use, a number of documents and reports will be published in a sales pack for potential interested parties to support their expressions of interest:
 - Bidding guidelines
 - Geoenvironmental surveys of the deposited soil
 - Indicative costs of remediation
 - Leisure facilities strategy
 - Playing pitch Strategies
 - Planning Comments
 - Heads of Terms
 - Title Review
 - Replies to Commercial Property Standard Enquiries (Form 1)
 - Details of the Bidders Evening
25. Officers have appointed an agent who has valued the site and provided commercial advice, and, if approved by Cabinet, will market it for suitable leisure and recreational use. The council has already received a number of unsolicited approaches from possible interested parties. The Council's agent has responded to these bidders to start the process of assessing their wherewithal to submit bids to the council. In addition to this activity, the site

will be widely marketed to ensure local providers, and national operators are aware of its possibilities. Clearly any future use has to be financially sustainable to clear excess soil from the site, develop a new facility and ensure it can be maintained for the years ahead.

26. Officers will work with the appointed agent to market the site on the basis of a freehold sale of the red line boundary. This approach is considered the most straightforward and least resource-intensive means of disposing of the site. A red line sale provides the clearest and most deliverable route to securing suitable leisure and recreational use within a reasonable timeframe. The public right of way in the form of a public footpath (Reference: UB107/29/10) will remain in place – further information is contained in the Property Report which forms part of the sales pack.
27. Given the poor condition of the site and its limited suitability for alternative uses, a key requirement of the council will be assurance that any prospective purchaser has the financial capacity to undertake the necessary remediation works and deliver a viable leisure-led scheme. The proposal must also demonstrate a sufficient return on investment to support a commercially sustainable development. Without these elements, any proposed solution is unlikely to be deliverable or sustainable in the longer term. The council is not proposing to fund remediation of the site itself or in partnership with any party who bids for the site.
28. Officers will also arrange an informal information meeting for interested parties on 14 October 2026 as there may be opportunities for some parties or sports to be able to work together on a bid to provide a suitable leisure or recreational use.
29. Marketing the site to interested parties, and the wider leisure sector should produce sufficient number of bidders for the council to select the most appropriate bid. The focus of the marketing will be to retain leisure use on site and to ensure that a new use can be found which will fund the clear-up of the site.
30. Officers have met with Elmbridge Eagles to advise them how to participate in this process and have offered further support through the RFL. Officers will work with the club to help them understand the process, meet with other bidders to enable them to make the case for the retention of Rugby League on the site. The evaluation of bidders will not require a condition for Rugby League to be played on the site. Adding this condition would restrict the opportunities for other bids to come forward, the overriding aim at this stage is to clear up the waste deposit and bring the site back into productive leisure use.
31. Given the considerable public interest in the future of the site, Members' involvement in the selection process is considered essential, along with a representative from Active Surrey to provide objective advice on sports and leisure uses. Officers have established guidelines for bidders (See Appendix B) explaining what we want to see presented back in their bids. Officers will

shortlist bidders, who will be invited to present their proposals to an Informal Member Steering Group, setting out the social, environmental and economic wellbeing benefits arising from their schemes. Deliverability will be a key assessment criterion, with particular regard to compliance with the council's leisure strategies and adopted planning policies. Proposals that do not align with the prevailing planning policy framework are unlikely to be regarded as deliverable.

Leisure strategies

32. The Oaken Lane site has strategic importance in delivering against the objectives of a number of key corporate and leisure strategies:

- Council Vision 2030
- Connected Communities – Needs and Challenges (2026)
- Leisure facilities strategy (2017-2035)
- Playing Pitch Strategy (2019) & tennis / netball / bowls (2023)
- Physical Activity Strategy (2021-2031)
- Uniting the Movement (Sport England 2021-2031)

Applications will be encouraged to demonstrate how they meet one or more of these adopted strategies.

Planning comments

33. The site is within the following designations:

- Green Belt
- Flood Zones 1 and 2 (northern part of the site)

34. The planning policy comments below are high level, provided in the absence of any scheme for the site, and set out what would need to be considered foremost in terms of the principle of the change of use / development of the site. Other policies in the National Planning Policy Framework (NPPF), Core Strategy 2011, Development Management Plan (2015), Developer Contributions SPD and the Design Code will apply to any detailed scheme, depending on what is proposed.

35. The site is designated Green Belt. The Green Belt in Elmbridge was assessed in 2016 and then in a more granular assessment in 2018. This site is identified within Local Area 45 and one of the sub-areas of this report as SA-63. The actual boundary of SA-63 is slightly larger than the site as it also includes the cottages to the north. When assessed against the Green Belt purposes in NPPF the assessment found that:

- Purpose A. To check the unrestricted sprawl of the large built-up areas – assessment was a 3 (moderately performing)
- Purpose B. To prevent neighbouring towns merging into one another – assessment was a 5 (strongly performing)

- Purpose C. To assist in safeguarding the countryside from encroachment – assessment was a 2 (weakly performing)
36. This sub area was assessed in terms of its impact on the wider Green Belt as playing:
- “a critical role in the context of the wider Green Belt, maintaining the physical and visual separation between Esher and Claygate, and Greater London, at both a local and strategic level. Although the removal of the sub-area would not, in itself, result in the merging of settlements, the particular sensitivity of this part of the Green Belt is such that its loss would comprise the ability of surrounding Green Belt to prevent settlements from merging and prevent sprawl.”*
37. Under the current NPPF 2026 sites can be considered Grey Belt if they meet the definition. The NPPF’s definition of Grey Belt is:
- For the purposes of plan-making and decision-making, ‘grey belt’ is defined as land in the Green Belt comprising previously developed land and/or any other land that, in either case, does not strongly contribute to any of purposes (a), (b), or (d) in policy GB2.*
38. Although part of this site could be considered previously development land, the current Green Belt evidence for the Borough, as set out above, assesses this site as making a strong contribution to purpose b, and therefore based on the current policy and information officers do not consider this site would meet the definition of Grey Belt.
39. In terms of a potential leisure use of the site, its last use was as a rugby club. The provision of facilities for this use (or other playfield use) could be an exception from inappropriate development in the Green Belt under policy GB7 of the NPPF, however any scheme would be assessed on whether it preserves the openness of the Green Belt. If not, it would be considered as inappropriate development.
40. Any scheme on the site would need to consider flood risk on part of the site and surface water. As set out above, once further details are known further advice or specific policy information can be provided, as these comments focus on the principle of a leisure use on a Green Belt site.
41. Padel has been suggested as a use either by itself or in conjunction with a playing field.
42. Padel is widely recognised as one of the fastest-growing sports in the UK, with substantial increases in participation levels and facility provision recorded in recent years. This growth has generated increasing demand and interest across many local authority areas, including in Elmbridge, for accessible, well-located sites. As a result, this site may be attractive to padel court providers seeking to expand provision to meet identified and emerging recreational needs.

43. Should there be interest from a padel provider, a key material consideration will be the impact on residential amenities, particularly noise and activity levels. Padel courts can generate distinctive and repetitive noise from play, as well as associated impacts from extended hours of use, lighting, and increased comings and goings.
44. The visual and environmental impacts of the courts must also be carefully considered. This includes the siting, scale and appearance of the courts, fencing, lighting columns, and any ancillary structures, as well as the effect on the character of the surrounding area and landscape.
45. Additionally, considerations such as transport and parking provision, accessibility, ecology, drainage, and compatibility with existing uses will be relevant in determining whether padel courts represent sustainable and acceptable development in planning terms.
46. At present the material introduced on site is in breach of the relevant planning consent. The council (as local planning authority) has not thus far considered it expedient to enforce the relevant conditions of this consent given the approach being taken by all parties to investigate a suitable solution on site. The council cannot fetter its future discretion (and noting that this function transfers to East Surrey Council in April 2027 when no guarantee can be provided) but provided the successful bidder works in good faith to bring forward an application to regularise the position and develop a new use for the site, then it is likely that the council will continue to adopt the same stance.

Timeline

47. Officers have prepared a project timeline to ensure that this disposal can be achieved before vesting day for the new East Surrey Council (1 April 2027).
48. In broad terms, if Cabinet gives its approval to proceed, then there will be a period of marketing the site throughout the autumn. Advertisements will be placed in the Estates Gazette, and our agents will contact known interested developers in this market. A microsite will be developed to provide interested parties with as much information as they need to develop a robust proposal for the council to consider.
49. The Informal Member Steering Group, together with relevant officers and a representative from Active Surrey, will convene in December to undertake a detailed evaluation of the shortlisted bids. Shortlisted bidders will be invited to present their proposals directly to the group.
50. The council may be able to make a decision for itself in January 2027. However, it is important to note that should the consideration offered for the site breach the threshold in the section 24 Notice, then an approval may also be required from East Surrey Council before the exchange of contracts (see legal implications below).

Communications

51. To support openness and transparency, an Engagement and Communications Plan has been developed. This will ensure that residents, stakeholders and other interested parties are kept informed of the marketing process, key decision points and the rationale underpinning the council's approach to identifying a preferred bidder.

Financial Implications:

Financial Risk

The council has obtained two quotes for remediation of the site. These were obtained via RSK Geosciences as part of their advice to us. It is difficult to give an accurate cost estimate for the proposed clean-up of the site, as some of this will depend on the eventual use of the site and what proportion of the material can be left in situ following agreement with the council as local planning authority and the Environment Agency. Taking a reasonable solution of removing the soil down to the level which was previously permitted, then the costs may be in the order of cost of a £0.85m. However, the ranges in the two quotes were both up to £1.7m. It is important to note these are estimates only and caveated with a range of factors including EA permitting, transport costs and availability of nearby waste disposal facilities.

Therefore, at this point the maximum sum of approximately £1.7m has to be considered as a financial risk to the council. If the Environment Agency were to enforce against the council this is the rough order of magnitude cost to remedy the site.

Whilst this is not an immediate risk, because the council has developed an alternative plan to remedy the site, this financial risk is still material for the council. It is a key driver for this project to pass that risk to another party by disposing of the land to a developer who can use the land profitably and at the same time invest the money necessary to fund the clean-up costs.

Cost implications

These are financial implications of this disposal project as follows:

Project cost	£
Commercial advice	16,000
Legal advice	25,000
Environmental consultants	13,470
Other marketing / project costs	4,650
Total costs	59,120

The funding for this project comes from an existing Asset Management and Property Services budget. Note that running a project which delivers no solution is also a financial risk for the council as the costs would still be incurred and the council may be no closer to a satisfactory outcome.

Site valuation considerations

The council has received valuation advice about the current value of the site. This is not reported in the public domain lest it prejudice any offers the council may receive for the site.

The dumping of excess material has impacted the council's interest in the land, effectively it has reduced the value of the land considerably (and there is now a liability to clean up the land which falls on the freeholder). It is important for the council to value the site at this stage to understand if there is any value in it and whether the council will be transferring the site at an undervalue (see legal implications below).

Environmental/Sustainability Implications:

The EA has previously confirmed that there is no valid permit for the site, the deposits are there illegally, and they are treating the site as abandoned.

While the soil is largely non-hazardous/inert, this is of a poor quality and requires remediation before bringing back into public use, in addition to removal of a significant quantity to meet the current planning conditions.

The EA confirmed to the council, "While the imported material is still of interest to the Environment Agency, our position is that it is unlikely to cause environmental harm if left in situ. If there are plans to cap the material or remediate the deposited waste material at any point, it is likely a permit will be required to do this".

Legal Implications:

At this stage, selling the site to a partner who can deal with the excess material on site and return the land to a productive leisure use is an attractive option, should such a partner exist in the market. Conducting a campaign to market the site widely and provide information to potential buyers to allow them to formulate a clear view on the project risks will be key.

A disposal of the site is the easiest way to proceed at this juncture to manage the risks faced by the council. A disposal of the land transfers the risk to another party, but clearly this means that the ultimate control of what happens on the site is left in the hands of the developer subject to planning controls.

The council could take a more involved and controlling role by commissioning and managing a development agreement for the site. However, this is resource and time intensive and will not be completed by the time the council transfers to East Surrey Council. Should the marketing exercise fail to generate suitable bids, the council will review and refine its recommendations to East Surrey Council regarding the future disposal of the site, including consideration of alternative procurement routes.

Delegated authority exists for the Strategic Director in consultation with the Chief Finance Officer and the Monitoring Officer to select the most advantageous bid for the council and to exchange and complete on the site, if the disposal is less than £100,000.

Section 24 Direction (Local Government and Public Improvement in Health Act 2007). If the consideration for this sale exceeds £100,000 then East Surrey Council will have to approve the council's final disposal decision. This affects the overall timetable. Arrangements have already been made to ensure that this matter is included on the East Surrey Shadow Executive's forward plan.

Section 123 Local Government Act 1972 – achieving best consideration reasonably obtainable. The council holds assets on behalf of the community and has a best value duty to ensure that it achieves the best sale price when disposing of assets. "Reasonably obtainable" refers to the ability of the council to assess whether a bid for a site can be delivered by the bidder, so the council is not always beholden to the highest cash bid if that was, for instance, conditional on an unlikely planning scenario. So, for instance, in this case, our planning policies point to a use compatible with green belt usage. The council would not be obliged to accept a high bid for housing usage which is unlikely to be achieved.

Where councils believe they have to contemplate a sale at an undervalue, then they are permitted to do so in line with the direction of the Secretary of State; the General Disposal Consent (England) 2003. This general consent permits disposals if both of the following apply:

- the amount of the undervalue does not exceed £2,000,000; and
- the disposal will help secure the promotion or improvement of the economic, social or environmental well-being of the area.

Authorities must be satisfied on reasonable grounds that the well-being benefits justify the undervalue and be able to evidence that assessment. Our bidding guidelines have been formulated to direct bidders to considering how their bids will provide economic, social and environmental well-being, but this is not an indication that the council is prepared to sell at an undervalue. Everything will be considered in the round once the bids are received.

Equality Implications:

An Equalities Impact Assessment has been undertaken for this project. There are no significant impacts to report.

Risk Implications:

If the council chooses not to remediate this site, the EA could still consider legal action against the council as landowner.

Whilst the site is not in use it is likely to encourage further damage to the asset, through further tipping. The site has been secured by the council to reduce this risk.

Failure to market the site would eventually result in the costs for remediation passing to East Surrey Council.

Our risk mitigation strategy is to assure the EA that action is being taken to find a way forward. The council's risk will be transferred to the buyer of the site who will be obligated to deal with the excess material. Selling the site and achieving those

guarantees before the vesting day of East Surrey Council is the main way that the council can manage the risk in this area.

Community Safety Implications:

As the site has been abandoned for some time this has attracted fly tipping to the entrance to the site, and vandalism to the council asset of the clubhouse. At present there are no significant community safety impacts. Clearly, potential for anti-social behaviour increases if the site remains in its current condition. Taking action to develop the site to a new use will reduce this risk.

Principal Consultees:

Council Management Board
Head of Legal & Governance Services
Head of Planning and Environmental Health
Head of Culture, Leisure and Environment
Environmental Health
Asset Management and Property Services

Background Papers:

None.

Enclosures/Appendices:

Appendix A) Planning Conditions
Appendix B) Bidding Guidelines

Contact Details:

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