



Notice of a public meeting of

Economy & Place Scrutiny Committee (Pre Decision Calling In)

To: Councillors N Barnes (Chair), D'Agorne, Funnell, Gates, Hunter, Kramm (Substitute), K Myers (Vice-Chair) and Orrell

Date: Monday, 11 September 2017

Time: 4.30 pm

Venue: The Thornton Room - Ground Floor, West Offices (G039)

AGENDA

1. Declarations of Interest

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in the business on the agenda.

2. **Public Participation**

It is at this point in the meeting that members of the public who have registered to speak can do so. The deadline for registering is **5:00 pm on Friday, 8 September 2017**. Members of the public can speak on agenda items or on matters within the remit of the committee.

To register to speak, please contact Democratic Services. Contact details are at the foot of this agenda.

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The Council's protocol on Webcasting, Filming and Recording of Meetings ensures that these practices are carried out in a manner respectful to both the conduct of the meeting and all those present. It can be viewed at https://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_council_meetingspdf

3. **Pre-Decision Called-In Item: Future Management of Allotments Next Steps** (Pages 1 - 16)

This report provides background to the pre-decision call-in of the item 'Future Management of Allotments Next Steps', setting out the reasons for the call-in and inviting the Committee to consider what feedback, if any, it may wish to give.

4. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democratic Services:

Contact Details:

- Telephone: (01904) 551088
- Email: democratic.services@york.gov.uk

For more information about any of the following please contact Democratic Services:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

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**Economy and Place Scrutiny Call-in
Committee****11 September 2017**

Report of the Assistant Director Governance & ICT

Pre-Decision Called-In Item: Future Management of Allotments Next Steps**Summary**

1. This report provides background to the pre-decision call-in of the item 'Future Management of Allotments Next Steps', setting out the reasons for the call-in and inviting the Committee to consider what feedback, if any, it may wish to make.
2. It also outlines the background to the issue called-in and the role of and options available to this Committee, under the agreed pre-decision call-in arrangements.

Background

3. At its meeting in August 2015, the Executive agreed some operational guidelines to enable and support a pre-decision call-in process. This guidance supplements the pre-existing arrangements for post-decision call-in and is intended to provide all backbench and scrutiny Members with opportunities to comment upon relevant upcoming Executive or Executive Member decisions.
4. In accordance with the arrangements for pre-decision scrutiny call-in, three Members (Councillors Craghill, D'Agorne and Kramm) have called in the item in relation to the Future Management of Allotments Next Steps, for the following reasons:
 - (i) The successful provision and potential expansion of allotments is an important issue for the future of York as a sustainable One Planet city. It is a key part of a local food growing culture in the city. It sits well with objectives under our Health and Well Being Strategy to promote healthy eating, community activity and involvement and tackle social isolation. It can play a part in

education for sustainability and resilience. Allotments can also play a role in providing cheap, healthy food for people suffering social disadvantage.

- (ii) The proposal is a major change to the management of allotments in the city, putting them outside direct Council control and as such our call-in is in order to ensure wider public debate before the final decisions are made. We are aware that some consultation with allotment holders has taken place, but as ward councillors we are also aware that many allotment holders are still either totally unaware or very unclear about what is happening.

Consultation

- 5. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the Call-in meeting, as appropriate, together with the appropriate Executive Member and officers.

Analysis

- 6. Members need to consider the reasons for call-in and any comments made at the meeting by speakers, as well as having regard to the information in the officer's draft report to the Executive Member for Culture, Leisure and Tourism on this matter, attached as Annex A to this report.

Options

- 7. The following options are available to this Committee in relation to dealing with this pre decision call-in, in accordance with the new agreed arrangements:
 - (i) Agree comments or recommendations for submission to the Executive Member, to take into account when making his decision; or
 - (ii) Decide not to make any specific comments/recommendations to the Executive Member on the issue in hand

Council Plan

8. There are no direct implications for this call-in in relation to the delivery of the Council Plan and its priorities for 2015-19.

Implications

9. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in terms of dealing with the specific matter before Members; namely, to consider and handle the pre decision call-in. However, if it became clear to the Committee from information received that there were implications associated with any comments/recommendations it wished to make then it would be appropriate for the Committee to also recommend that any such implications be looked into, prior to the Executive Member making a decision which might be affected by those implications.

Risk Management

10. There are no direct risk management implications associated with considering the call in of this matter. However, the Committee would be advised to invite the Executive Member to take account of any risks associated with any comments/recommendations which the Committee may wish to make on this matter, prior to implementing any decision.

Recommendations

11. Members are asked to:
 - (i) consider the reasons for calling in this matter prior to decision, together with all submissions made and decide whether they wish to make any specific comments/recommendations for consideration by the Executive Member; and
 - (ii) invite the Executive Member to make his decision at a future Executive Member Decision Session in light of (i) above.

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the new pre-decision call in arrangements.

Contact Details

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Chief Officer Responsible for the report:

Andrew Docherty
AD Governance & ICT

**Report
Approved**



Date

1 September 2017

Wards Affected:

All



Annexes:

Annex A – draft report to Executive Member for Culture, Leisure and
Tourism: Future Management of Allotments Next Steps



**Decision Session - Executive Member for
Culture, Leisure and Tourism**

25 September 2017

(draft) Report of the Director of Economy and Place

Future Management of Allotments Next Steps**Summary**

1. This report seeks approval to transfer the management of council run allotments to York Allotments Charitable Incorporated Organisation.

Recommendations

2. The Executive Member is asked to transfer the management of council run allotments to York Allotments Charitable Incorporated Organisation (York Allotments CIO or Charity for short).

Reason: To harness the talents and energies of the community and to move the service onto more sustainable management arrangement.

Background

3. In January 2017 the Executive member agreed to the development of a new management model for the council's allotments as part of the council-wide programme of exploring new ways of delivering services, including community-led management.
4. The Council manages some 1,250 allotment plots spread over 18 sites. The sites are: Bootham Stray, Carr, Field View, Fulford Cross, Hospital Fields, Glen (in Scrope), Green Lane, Hob Moor, Holgate, Hospital Field, Hempland Lane, Howe Hill, New Lane, Low Moor, Scarcroft, Strensall, Wigginton Road and Wigginton Terrace.
5. The council owned site at Bustardthorpe is not included in this proposal as Bustardthorpe is already managed by tenants.
6. In the January 2017 Executive report it was reported that a number of councils around the country have allotment sites which are run

independently from their local council; this includes both single sites and larger groupings of sites. The arrangements take on a variety of forms such a federation of tenants, a charity, Industrial and Provident Society, a not for profit company or another similar body. In all cases the council continues to own the land and protects it use through a lease.

7. Since January a group of allotment tenants drawn from the autumn 2016 workshops have been exploring a variety of models of future service management arrangements. The group focused their efforts on two main approaches a Charitable Incorporated Organisation (CIO) and a Community Interest Company (CIC). By a 7 votes to 3, with one abstention, the group elected to develop a CIO.
8. The key to developing any such arrangements is to have suitably motivated and experienced volunteers who are willing to take on leadership and administration roles. Six members of the workshop agreed to become the founding Trustees of the CIO (one has subsequently resigned). They have experience and knowledge across a wide range of suitable fields including allotment administration, horticulture, managing community business, charities and trusteeships, Town Planning and Law. Further information on the Trustees is provided as Annex 1.
9. In setting up the CIO the Trustees have been very careful to follow Charity Commission guidelines. This includes the requirement to call an Annual General Meeting (AGM) open to all tenants (all allotment tenants are automatically members of the Charity and therefore entitled to a say in the running of the organisation), within 18 months of their registration and for all Trustees to put themselves forward for re-election (should they wish to continue) at that first AGM. The Charity Commission gave their approved to the York Allotments Charitable Incorporated Organisation in mid August.
10. The Charity constitution allows for up to 9 Trustees; this means that the opportunity is open for 3 new Trustees join or be co-opted onto the Board during the first year so increasing its skills, knowledge and resource base. A majority of Trustees must be drawn from tenants.
11. The proposal in this paper does not remove the legal duty on the authority to provide allotments should more allotments be required. The council will also continue to take a lead on advice on Planning matters relating to allotments

Proposal

12. York Allotments CIO will manage all of the allotment sites identified in Paragraph 4 including setting and collecting rents, administering lettings, arranging and carry out repairs and maintenance. They will do so through the Board of Trustees, by employing or buying administrative support and by working through site secretaries and other volunteers.
13. York Allotments CIO are setting up their own bank account, and will prior to taking on day to day management:
 - take out £5m of Public Liability Insurance, and, if necessary, Employee Liability Insurance
 - develop a new tenancy agreement
 - develop manual for the running of the sites, which includes how warnings and evictions for non cultivation or other breaches of the tenancy will be dealt with, rules of the keeping of livestock and erection of sheds, green houses and other structures and an appeals process
 - establish communication channels with tenants to report problems e.g. leaking taps
 - establish local arrangements for repairs and maintenance e.g. grass and hedge cutting
 - transfer utility bills
14. A business plan for the first years of operation has been provided at annex 2. The business plan for 2018 is based on freezing rents at 2017 levels. (*Nb this will be ready for Executive Member meeting*)
15. York Allotments CIO will continue to use the Colony Enterprise software system (tenant database). This will be hosted by the supplier rather than on a council server and training on use of the system is being arranged for September. York Allotments CIO is bound by Data Protection regulations and as the original holder of the database the council retains ongoing liability for any misuse.
16. For 2018 the Charity will issue new tenancy agreements to all tenants. This will be based upon the existing conditions which are provided as Annex 3.
17. The council will continue to own the land and will lease it to York Allotments CIO; the terms of which will be considered by the Executive in August. As part of this exercise there are no

proposals to either close allotments or sell any land, and neither will the CIO will not have this ability.

18. The council will retain a number of ongoing liabilities such as certain walls, hedges, surfaced roads and culverts. These will be detailed in the lease. The provision and emptying of dog waste bins will also remain with the council.
19. A list of outstanding minor works has been compiled with the help of the Trustees, Site Secretaries and Associations and a full inspection of the tree stock has been arranged. Up to and during the handover period the identified items will be addressed.
20. If, the new organisation were to fold the council would work with the Charity Commissioners to either establish a new organisation or take the service back in house.

Consultation

21. In January a letter was sent to all tenants and press release issued. No comments received.
22. In April the voluntary Site Secretaries were briefed.
23. From April onwards Trustees have been meeting with Site Secretaries and Associations.
24. In preparation for this report letter has gone to all tenants with an update along with a Frequently Asked Question sheet. This has been prepared with the help of the Trustees was sent to all tenants in early September.
25. Any comments received in response to the letter will be verbally reported to the Executive Member at the meeting

Options and Analysis

26. Two options are available:
 - a. To agree to the future management of York allotments being provided by York Allotments CIO.
 - b. Not to pursue this idea further.
27. Option a) would place the asset in community control and support the principle of volunteers assisting with the care of the city's open spaces. This is the recommended option.
28. Option b) the management of service would be retained by the Council.

Council Plan

29. Option a) meets the Council Plan priorities that ensure valued community facilities are protected and the Council works with other organisations to deliver the best services for residents.

Implications

Financial

30. To support the Charity to become established the council will fund
- a) The transfer of the Colony software system back to its provider along with training on its use for up to six people. The cost of this is £7k.
 - b) 1/12th of the 2017 plot income will be paid to the Charity for each month it operates up to and including December 2017. This equates to £6k per month.

Both costs will met from Public Realm budgets.

31. For 2018 and beyond the Charity will be responsible for setting fees and charges, invoicing tenants and will be have to balance its expenditure with the income it raises. There will be no further financial support from the council.

Human Resources (HR)

32. HR procedures are being followed in order to reduce resources within the Public Realm team.

Equalities

33. An equalities impact assessment has been undertaken.

Legal

34. There are no legal implications.

Crime and Disorder

35. There are no crime and disorder implications.

Information Technology (IT)

36. Allotment administration is supported through the *Colony Enterprise* IT package which holds data on vacancies and waiting lists, lettings and terminations, and invoicing and payments. Use of

the system will be transferred back to the provider who will host the system for the Charity.

Property

37. A lease will be required by the Charity, under council protocol this will be considered by the Executive.

Other

38. Following the Executive meeting in October all tenants will be written to in mid October to seek their approval to transfer their data to the Charity. This is required to comply with Data Protection regulations

Risk Management

39. In compliance with the Council's risk management strategy the main risks that have been identified with the proposals contained in this report are that the Charity fails to become established, or that the Charity folds at a point in the future. This may damage the Council's reputation and would require the Council to intervene until such time as new body could be found to run the service. Level of risk is assessed as Low. This means that periodic monitoring is required of the operation of the new arrangements.

Annex 1: Trustee profiles

Annex 2: Indicative business plan

Annex 3: Existing Tenancy conditions

Background Papers:

- Decision Session - Executive Member for Culture, Leisure & Tourism – 16th January 2017 – Item 27 Future Management of Allotments
- Consultation papers (file held by the author)

Contact Details

Author:	Chief Officer responsible for the report:		
Dave Meigh Operations Manager Public Realm (Strategy and Contracts)	James Gilchrist Assistant Director (Transport, Highways and Environment) Charlie Croft Assistant Director (Communities & Equalities)		
	Report Approved	✓	Date
Specialist Implications:			
Wards Affected:	All	✓	

Annex 1: Trustee profiles

Name	Site	Background
Tony Chalcraft	Carr	Semi-retired, now part-time academic journal editor, previously Head of Library and Information Services, York St John University. Members York Get Growing project. Involved with various local / national organisations / charities including York Organic Gardeners Association. Currently Chair of Trustees Worldwide Opportunities on Organic Farms. 35 years on York allotments. Experience includes budget management, charity trusteeship, project management, training/presentations and growing
Adam Myers	Low Moor	Manager of Brunswick Nursery; a charity working with adults who have learning difficulties. Knowledge of setting up and running charities, budgetary management spreadsheets etc.
Colin Smith	Green Lane	Retired nurse with 30 years experience. For 10 of those years I held budgetary and managerial responsibility for a community clinic. Secretary of Green Lane Growers, volunteers on the Green Lane site
Lisa Turner	Wigginton Terrace	Partner in a firm of solicitors. Qualified solicitor for over 25 years. Legal knowledge and experience of running a business, employment accounts financial planning and management etc. Site secretary at Wigginton Terrace allotments.
Simon Wild	Low Moor	A senior policy advisor and project manager in Defra. Experience of operational delivery, IT systems and policy development. Site secretary for Low Moor for 8 years and Treasurer of the Low Moor Allotments Association.

Annex 2: Indicative business plan

Updated draft in preparation

DRAFT

Annex 3: Existing Tenancy conditions

THE TENANCY is subject to the Allotment Acts 1908 to 1950 and also to the following conditions:

1. A single deposit shall be paid by the Tenant to the Council within 14 days of receiving an invoice from the Council. Such deposit may be used by the Council for any reinstatement of the Allotment Garden at the end of the tenancy into the condition it was in prior to the commencement of the tenancy. Any balance over the cost of reinstatement will be refunded.
2. The Tenant shall use the Allotment Garden as an allotment garden only (that is to say wholly or mainly for the production of garden flowers, vegetable or fruit crops for consumption by the tenant and her/his family) and for no other purpose and to keep the soil clean and free from noxious contaminants, livestock carcasses, weeds and in a good state of cultivation and fertility and in good condition.
3. The Tenant shall not cause any nuisance or annoyance to the occupier of any other allotment garden or to occupiers of neighbouring properties, or obstruct any path set out by the Council for the use of the occupiers of the allotment gardens.
4. The Tenant shall not underlet, assign or part with the possession of the Allotment Garden or any part thereof without the written consent of the Council.
5. The Tenant shall not without the written consent of the Council, cut or prune any timber or other trees, or take, sell or carry away any mineral, sand or clay.
6. The Tenant shall not use synthetic carpet as a weed suppressant.
7. The Tenant shall not keep any livestock (including cockerels) on the Allotment Garden except for pigeons, rabbits, bees, hens and waterfowl, subject to the payment of the appropriate element of the amenity charge, and with the prior written permission of the Council. Any livestock carcasses shall be disposed of according to the appropriate legislation.
8. The Tenant shall keep every hedge that forms part of the boundary of the Allotment Garden properly cut and trimmed, keep all ditches properly cleansed and maintained and keep in repair all fences gates and sheds on the Allotment Garden. It is recommended that hedges and fences do not exceed a height of 1.5 metres.
9. The Tenant shall not use any barbed wire for a fence adjoining any path set out by the council for the use of the occupiers of the allotment gardens.
10. The Tenant shall not without the written consent of the Council erect any building or structure on the Allotment Garden, and shall

- be responsible for the removal of any building or structure on or before the termination of the tenancy.
11. Any duly authorised representative of the Council shall be entitled at any time to enter and inspect the Allotment Garden.
 12. The Tenant shall not lock any access gate between allotment gardens without the prior written permission of the Council to whom a copy of the key should be provided.
 13. The Tenant shall not burn any plastic or synthetic materials on the Allotment Garden.
 14. All shared paths between the Allotment Garden and any neighbouring allotment garden shall be kept cut and clipped up to half their width by the Tenant unless otherwise expressly provided for by the Council.
 15. No trees other than fruit trees shall be grown on the Allotment Garden.
 16. The Tenant shall not use any water supply which may be made available for use by tenants of allotment gardens, other than for filling butts and containers, prior to distributing their contents on the Allotment Garden.
 17. The Tenant shall not use the Allotment Garden for residential purposes.
 18. Where the expression "the Tenant" consists of more than one person the obligations on such persons shall be joint and several.
 19. The tenancy of the Allotment Garden shall terminate on the yearly rent day after the death of the Tenant and shall also terminate whenever the tenancy or right of occupation of the Council terminates. In the event of the unfortunate death of the tenant, first refusal will be offered to a close relative, partner or close friend of the Tenant. It may also be terminated by the Council by re-entry after one month's notice:
 - (i) If the rent is in arrears for not less than 40 days OR
 - (ii) If the Tenant is not duly observing the conditions of his/her tenancy OR
 - (iii) If s/he becomes bankrupt or compounds with his/her creditors.
- The tenancy may also be terminated by the Council by twelve months previous notice in writing expiring on or before 6th day of April or on or after 29th day of September in any year.
20. Should the Tenant wish to terminate this tenancy then 1 month's written notice to the Council is required.

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