

Executive

19 October 2017

Report of the Director of Economy and Place
Portfolio of the Executive Member for Culture, Leisure and Tourism

Proposed Lease of Council Allotments to York Allotments Charitable Incorporated Organisation

Summary

1. This report seeks an Executive decision to grant a seven year lease to York Allotments Charitable Incorporated Organisation.

Recommendations

2. The Executive is asked to:

Agree Option 1 – to grant a lease of the Council-owned allotment sites in York listed at paragraph 5 of this report to York Allotments Charitable Incorporated Organisation (YACIO), for a Term of 7 years, at a peppercorn rent, in accordance with the terms as set out in the Council's Asset Transfer Policy.

Reason: To harness the talents and energies of the community and to allow tenants to have a direct say in the day to day management of the service.

Background

3. The Council has a history of transferring the management of open space to the community, for example.
 - a) St Nicolas Fields Nature Reserve – managed by the Friends of St Nicolas Fields since 1998.
 - b) Rawcliffe Lake – fishing managed by York and District Amalgamation of Anglers since 2002.

- c) Bustardthorpe allotments – managed by Bustardthorpe Allotment Association since 2002.
 - d) Glen Gardens tennis courts managed by Heworth Tennis Club since 2015 and Rowntree Park tennis courts managed by Rowntree Park Tennis Club since 2016.
 - e) Scarcroft Green, West Bank Park and Clarence Gardens bowling greens- full self management of greens by Bowls and Croquet Clubs since January 2017.
4. Greater community involvement in the services creates volunteering opportunities across a range of disciplines, maintenance, administration, fund raising and management for example. Volunteers then have a greater say in how the service is run and developed. Local care and ownership of land can also result in savings to the tax payer and being outside local authority day to day control can attract external investment from local and national funders which are not available to the Council.
 5. As part of this approach it was agreed as part of the 2016/17 budget processes to seek new management arrangements for the Council allotments at: Bootham Stray, Carr, Field View, Fulford Cross, Hospital Fields, Glen Green Lane, Hempland Lane, Hob Moor, Holgate, Hospital Field, Howe Hill, New Lane, Low Moor, Scarcroft, Scrope, Strensall, Wigginton Road and Wigginton Terrace. A plan of each site is provided as Annexes.
 6. This process has been overseen and approved by the Executive Member for Leisure, Culture and Tourism. At the Executive Member meeting on the 16th January 2017 it was resolved: *“That the development of alternative management arrangements for the allotments service is approved, and once these have been developed a further report be received by the Executive Member”*.
 7. Following this decision a volunteer task group drawn from tenants explored different community management structures. Six members of the group then volunteered to become Trustees to form a Charitably Incorporated Organisation to manage the service; in August the Charity Commission approved their application.
 8. In September 2017 the Executive Member Leisure, Culture and Tourism agreed to transfer the management to YACIO and, following Council protocol, requests that the Executive grant a lease to YACIO.

9. The Council's Community Asset Transfer policy states that qualifying community groups should be offered a lease up to 99 years on a nil rent basis. The length of the lease is dealt with on a case-by-case basis, but needs to be long enough to offer security for the tenant to invest time and effort in developing the premises, and at the same time, for the council to have confidence in the organisation. In this case, it is proposed to offer YACIO a lease for a Term of 7 years.
10. Under the terms of the proposed lease a number of residual responsibilities will stay with the Council, including maintenance of brick perimeter walls (e.g. Scarcroft allotments, Green Lane allotments), prominent mature boundary trees (e.g. Hob Moor) and shared metalled surfaces (e.g. Holgate allotments, Low Moor allotments cycle track). These are documented on a site by site basis and will be recorded in the relevant respective lease. The provision and emptying of dog waste bins will also remain the Council's responsibility.
11. Under the terms of the proposed lease YACIO cannot sell or dispose of any land, transfer any of their duties to a third party, or use the land for other than the stated purpose of allotments as defined by the various Allotments Acts. Failure to comply with the above would result in breach and potential forfeiture of the lease.

Consultation

12. YACIO trustees have been consulted on the length of the lease and its contents.
13. There has been an ongoing dialogue between tenants, site associations and the Public Realm Operations Manager (Strategy and Contracts) for the last 18 months. Details of which were reported to the Executive Members at their decision making sessions.
14. The transfer of the service was also subject to Pre Decision Calling In and the points raised by the Economy and Place Scrutiny Committee were considered by the Executive Member for Leisure, Culture and Tourism 26th September 2017.

Options

15. Option 1 – to lease York allotments identified in paragraph 5 to York Allotments Charitable Incorporated Organisation for a Term of 7 years.

16. Option 2 – to lease York allotments identified in paragraph 5 to York Allotments Charitable Incorporated Organisation for a longer or shorter Term than 7 years.

Analysis

17. Both options provide for the service to be transferred to YACIO. By doing so, letting, care and maintenance, promotion and development of allotments will be the responsibility of YACIO. This follows the pattern set out in Paragraph 3 where the management and care of facilities is transferred to the community.
18. A seven year Term is considered advantageous for both parties as it allows for the founding Trustees to plan for medium term and for the authority to see how the new organisation performs. This length of lease allows for tenant participation in the new organisation to develop as this will be the key to its long term success and sustainability. All tenants are members of the Charity and therefore have a say in the setting of rents, the development of sites, future direction of the organisation and selection of Trustees (all Trustees have to seek re-election at the organisations first AGM and then periodically thereafter).
19. A shorter term is not recommended as this does not recognise the amount of effort that is required to set up the new enterprise. A longer lease can be daunting to a new organisation and would prevent the authority from reviewing the success of the organisation for several years.
20. By way of comparison those organisation listed in Paragraph 3 existed for a number of years prior to taking on the full management of the service or facility. During that time the organisation was known to the authority and had a history of involvement in the service or facility. The exception to this being Bustardthorpe Allotment Association who were also offered a trial period in the first instance. For the above reasons Option 1 is recommended.

Council Plan

21. This proposal will support and contribute to Council Plan priorities:
 - A prosperous city for all
 - Everyone who lives in the city can enjoy its unique heritage and range of activities.

- A focus on frontline services
 - All York's residents live and thrive in a city which allows them to contribute fully to their communities and neighbourhoods
 - Residents are encouraged and supported to live healthily

Implications

22. Implications

- **Financial** A peppercorn rent will mean that no inter-service rental will be payable to the Housing Revenue Account, as a result the Account will be short of £3k income.
- **Human Resources (HR)** There are no HR implications.
- **One Planet Council / Equalities** There are no Equalities implications.
- **Legal** It is understood that some of the allotment land in question (Carr Lane, Green Lane and part of New Lane) is currently held within the Housing Revenue Account. Section 32 of the Housing Act 1985 requires that the consent of the Secretary of State (for Communities and Local Government) is obtained before the Council can dispose (including granting a lease) of any HRA property. However paragraph A3.2 of the Housing General Consents Order 2013 gives the Secretary of State's consent to the disposal of 'vacant' (land on which no habitable houses currently stand) HRA land on whatever terms/for whatever consideration the Council considers appropriate.
- It is understood that the remainder of the allotment sites referred to in this report are held within the General Fund. Section 123 of the Local Government Act 1972 authorises the Council to dispose of (including by granting a lease of) non-housing land without the consent of the Secretary of State (for Communities and Local Government) provided that the best consideration reasonably obtainable is being obtained. The Council can still dispose of/grant a lease of non-housing land without the Secretary of State's consent for less than best consideration/full open market value provided that: (i) the difference between the price obtained and full market value does not exceed £2 Million AND (ii) the Council (acting reasonably and properly considers) that the disposal will facilitate the improvement of economic, environmental or social well-being of the area.

- If the land in question is all solely used for allotments and is not accessed by the general public for recreation then it would not be 'open space' land for the purposes of S.336 of the Town and Country Planning Act 1990. (S.123(2A)) of the Local Government Act 1972 requires that any proposed disposal of open space land by a local authority is notified in a local newspaper in two consecutive weeks and due consideration given to any comments/objections received before the proposed disposal is completed).
- **Crime and Disorder** As part of the handover arrangements improvements are being made to boundaries at three sites to improve security.
- **Information Technology (IT)** 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 YACIO.
- **Property** See main body of the report.
- **Public Health** The provision of allotments contributes to the Public Health agenda – including physical and mental wellbeing, social inclusion and the growing of fresh produce.
- **Planning** There are no Planning implications.

Risk Management

23. The main risks to the Council are reputational and operational. If for some reason YACIO fails the management of the service would fall back to the council at which point a decision would be required to either directly manage the service again or to seek a new body run it. The risk is considered to be low

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Report Date 17.09.17
Approved

Specialist Implications Officer(s) List information for all

Implication ie Financial
Name
Title
Tel No.

Implication ie Legal
Name
Title
Tel No.

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

All relevant background papers must be listed here.

Decision Session - Executive Member for Culture, Leisure & Tourism – 16th
January 2017 – Item 27 Future Management of Allotments

Decision Session - Executive Member for Culture, Leisure & Tourism – 25th
September 2017 – Item 5 Future Management of Allotments Next Steps

Annexes

- Annex 1 Bootham Stray allotments
- Annex 2 Carr allotments
- Annex 3 Field View allotments
- Annex 4 Fulford Cross allotments
- Annex 5 Glen allotments
- Annex 6 Green Lane allotments
- Annex 7 Hempland Lane allotments
- Annex 8 Hob Moor allotments
- Annex 9 Holgate allotments
- Annex 10 Hospital Field allotments
- Annex 11 Howe Hill allotments
- Annex 12 New Lane allotments
- Annex 13 Low Moor allotments
- Annex 14 Scarcroft allotments
- Annex 15 Scrope allotments
- Annex 16 Strensall allotments,
- Annex 17 Wigginton Road allotments
- Annex 18 Wigginton Terrace allotments

List of Abbreviations Used in this Report

YACIO - York Allotments Charitable Incorporated Organisation