

Executive

6th May 2008

Report of the Corporate Landlord

Back Park Petition – Executive Response

Summary

1. The purpose of this report is to:
 - a. Ask Members to respond to a petition submitted to the council relating to any potential development of the Back Park , Balfour Street, York.
 - b. To clarify the status of this property holding.

Background

2. The petition states:

"We the undersigned call upon the Council to permanently remove Back Park (aka Victoria Park) from the list of leisure land under threat of sale, in order to ensure that the land which was given to the residents of the Leeman Road area by the Rowntree Family to enjoy as an amenity leisure site, will remain as such."
3. The land the petition refers to is held for the purpose of leisure provision. The land has never been formally declared surplus to those requirements. The land had, therefore, at the time of the petition never been approved for sale by the Executive and as a consequence not included on a list of sites for potential sale.
4. The whole of the site (A, B and C) was gifted to the Corporation by Arnold Stephenson Rowntree on 9 June 1911. The site to be 'held as public ground for the purposes of the Recreation Ground Act 1859' and to be (1) 'used as recreation ground especially for children' and (2) 'a bowling green for adults at no charge for entrance, but can charge for playing bowls'.
5. Use or disposal of any part of this land for purposes other than those stipulated in the Deed of Gift may require consent from the

successor organization to Arnold Stephenson Rowntree. The Corporate Landlord is seeking to identify the successor organization and is taking further legal advice to determine the appropriate action to be taken by the council for any change of use.

6. The attached plan shows the area currently held for leisure purposes (Area A and B) and the area (back of Lincoln Street) appropriated from Recreation & Amenities Committee to Part II of the 1969 Housing Act for use as car parking – S121 of Town and Country Planning Act 1971 – in May 1979 (Area C).
7. The Recreation Grounds Act 1859 dealt with essentially charitable bequests of land was repealed by the Charities Act 1960 which was in turn repealed by the Charities Act 2006. Section 2 of the 2006 Act clearly defines what are charitable purposes and these are purposes which are for the public benefit. Section 2(2) expressly provides that public benefit includes the provision of facilities for recreation and leisure.
8. The Charity Commission has been approached to give an opinion as to whether a charitable trust has been created.
9. Assuming that a trust does exist then further legal advice will be sought to determine whether:
 - a. The trust has been abandoned?
 - b. If not is there any way of securing a release from the trust ?
 - c. If not what is the impact of the legislation on any proposed sale?
10. Council considered and approved the capital budget for 2008/9 at the Council meeting on 21st February 2008. As part of that capital budget report an annexed list of sites earmarked for disposal and the generation of capital receipts was also approved.
11. Included and approved in the list of disposals is Area A.

Consultation/Analysis

12. The petition.
13. The Corporate Asset Management Group (CAMG) has looked at this area of York and considered whether a more holistic picture of land in that area would provide us with a more strategic and acceptable solution to the local community.
14. All of the land used as open space in this area is in very poor condition and if any of it is going to provide a worthwhile facility or space to benefit the local community it would need a significant level of investment.

15. One way to generate that investment would be to rationalise the open space ie. dispose of some of the open land and use part of the receipt to upgrade those that remain, the residual receipt being used to support the capital programme.
16. This would enable the CAMG and Corporate Landlord to engage with ward members and the local community on the issue before bringing the options for disposal and investment back to the Executive.

Corporate Priorities

17. Improve the quality and availability of decent affordable homes in the city.
18. Improve the actual and perceived condition and appearance of the city's streets, housing estates and publicly accessible spaces

Implications

19. Financial– The capital programme as approved on 21st February 2008 is now dependant upon the generation of a capital receipt from the disposal of part of the land identified on the attached drawing at Back Park, Balfour Street, York.
20. Legal- Further advice awaited from specialist consultant
21. There are no other implications from this report

Risk Management

22. Failure to achieve the capital receipt will impact upon the council's capital programme and will require Members to either identify an alternative site for disposal or reduce the capital programme by the level of capital receipt expected from this sale.
23. Action has been taken to determine the identity of the successor organisation to Arnold Stephenson Rowntree to enable the council to fully appreciate the requirements or consent needed for any change of use on this property holding. There is always the possibility that consent would not be given.

Recommendations

24. Members are asked to:
 - a. Note the status of the land at issue
 - b. Members are asked to respond to the petition once legal advice has been received.

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Specific Implications:

Financial: Tom Wilkinson

Legal: Brian Gray

Wards Affected: All

Report Approved



Date

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2007*

For further information please contact the author of the report

Background Papers