

Museum Gardens Public Toilets

Summary

1. This report seeks approval to grant a long lease of the site of the Museum Garden Toilets, an adjacent store building and an adjoining area of the Museum Gardens (the Property) to a development company, The Lendal Tower Venture (the Developer).

Background

2. The location of the Property is shown hatched black on the plan attached as Annex 1. It falls within the Yorkshire Museums and Gardens Charity (the Charity) and as such is part of the estate managed by York Museums Trust (YMT). The adjoining building to the Property known as the Engine House is part of the former York Waterworks office owned by council and leased to The Helmsley Group for a term that expires in 2177 at a peppercorn rent.
3. In April 2006, the Executive considered a report on a proposal from the Developer to build a restaurant with an outdoor terrace on a raised platform using part of the Engine House and the toilet site. The scheme, which now has planning permission, would incorporate a new gated and separate ramped entrance to the Museum Gardens from The Esplanade, new facilities for the leisure boat users and an alternative access to the restaurant and a paved courtyard through the City Walls, from the road that leads to Dame Judi Dench Walk.
4. Members welcomed the proposal to improve and enhance this corner of the Museum Gardens with a restaurant and agreed in principle to the closing of the toilets and leasing the site to the Developer and ask that a further report be presented on the terms of the development agreement, alternative arrangements for the public toilets and facilities for the boat users.

Information

5. The existing public toilets are only opened between March and September. Within the proposed restaurant scheme there will be a disabled toilet, open to the general public at all times the restaurant is open. The nearest public toilets are located at Bootham Bar. A Scrutiny Committee is currently looking at the implications of a Cultural Quarter that includes the Museum Gardens and there

is regular dialogue with the YMT with regard to improvements to the Yorkshire Museum and the Gardens, consequently the provision for any replacement public toilets within the Cultural Quarter can be discussed and addressed within these forums.

6. The new development scheme will also provide a building to accommodate a sluice and refuse facility to be accessed by boat users at any time and a new water point on The Esplanade.
7. As the capital receipt from the grant of the lease will be derived from the assets of the Charity it will be necessary to ring-fence the receipt and apply it to the benefit of the Charity. Under the new organisational scheme for the Charity, the Managing Trustee is YMT and it would therefore be appropriate for the receipt to be used to further YMT's plans for the refurbishment of the Yorkshire Museum and Gardens.
8. Heads of Terms for a Development Agreement have been provisionally agreed with The Lendal Tower Venture, a single entity venture company formed from syndicated members of The Helmsley Group. The Development Agreement will be conditional on the council obtaining the Charity Commission consent, the Developer obtaining Schedule Ancient Monument Consent and a tenant for the new restaurant. If all the conditions are satisfied the Developer will be granted a lease of the Property to run co-terminus with the Engine House lease having a termination date 24th March 2177. The main Heads of Terms are included as Confidential Annex 2.

Consultation

9. Ward members are supportive of the restaurant scheme and feel it fits in with the long term plans of improving the area and the Cultural Quarter. The advantages for the Museum Gardens outweigh the loss of the public toilets and the location of the restaurant will heighten the appreciation of Lendal Bridge, the adjacent buildings and the river.

YMT have agreed to the relevant land being removed from their lease of the Museums Gardens and are supportive of the scheme, which they see as a beneficial investment in the Museum Gardens.

Through the planning process the boating fraternity have been consulted on the new facilities to be provided for their use and they generally welcome the new facilities.

Options

10. The following two options are available:
 - a) Grant a lease of the Property for the proposed restaurant scheme;
 - b) Retain the public toilet block.

Analysis

11. Option a) – Grant a lease of the Property

Advantages:

The present public toilet block presents a poor entrance to the Museum Gardens and if this development scheme comes to fruition, it will provide an enhance entrance from The Esplanade, new refreshment facilities with the restaurant and terrace over looking the river with a disabled toilet available to the public throughout the year and a new water point and disposal facilities for the boaters who moor at The Esplanade.

Disadvantage:

The existing public toilets available between March and September will not be fully replaced in the short term.

Option b) – To retain the Property.

Advantage:

The public toilets and existing boat facilities will remain. `

Disadvantage:

The opportunity to provide an enhanced entrance to the Museum Gardens from The Esplanade will be lost.

Corporate Priorities

11. Supporting the Developer's proposed scheme will improve the condition and appearance of a publicly accessible space, one of the Ten Priorities to be achieved over the next four years, included within the Corporate Strategy.

Implications

12. The following information is provided:

- **Financial**

The budget for maintaining and operating public toilets will be reduced.

- **Human Resources (HR)**

There are no HR implications

- **Crime and Disorder (C & D)**

There have been some anti-social activities associated with the toilet block.

- **Legal**

There are a number of legal aspects to this transaction including, an application to the Charity Commission for consent to grant a lease, drafting a conditional development agreement, the long term lease to be granted to the Developer, a surrender document in relation to the existing lease of the store building, an escrow and step-in rights document, approval of the documentation with YMT, negotiations with the YMT with regards to creating a new access to the Museum Gardens and to carry out the development. The Developer has provided an undertaking to be responsible for the council's legal costs whether or not the development agreement subsequently becomes unconditional.

- **Equalities**

There are no equalities implications

- **Property**

The Property implications are included within the report.

Risk Management

13. The proposed development will not start until all external consents have been obtained and a tenant has provisionally agreed to lease the proposed restaurant, therefore the risk to the council of achieving the objective at this stage is minimal. Under the development agreement, the developer has to deposit the cost of carry out the development in a joint escrow account, and in the event the Developer defaults during the construction, there are step-in rights for the council to use the funds in the escrow account to finish the works. Although this measure is not an absolute guarantee the development scheme will be completed, it provides the best safety net that can be devised to ensure risks associated with development are minimised.

Recommendation

14. Members are asked to:
 - 1) approve Option A: subject to obtaining the Charity Commission consent to the transaction, to lease the site of the Museum Garden Toilets, an adjacent store building and a adjoining area of the Museum Gardens to The Lendal Tower Venture based on the Heads of Terms of the Development Agreement, as included in Annex 2.
Reason: To improve a publicly accessible space.
 - 2) apply the consideration sum to the benefit to the Yorkshire Museum and Gardens Charity.
Reason: To comply with the Council's obligations as custodian trustee.

- 3) request at the next full council meeting that a sub-committee be constituted as the Yorkshire Museum Gardens Committee, in accordance with the 1960 Charitable Scheme (pending the final agreement of the new replacement Scheme), in order to remove from the endowment the property required to build the proposed restaurant, in compliance with the Charities Act 2006.

Reason: To comply with the Charities Act 2006 and to make a proper application to the Charity Commission for consent to dispose of the property.

Contact Details

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**Report
Approved**



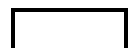
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Specialist Implications Officer(s)

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Wards Affected: Guildhall



For further information please contact the author of the report

Background Papers: Minute 192 of The Executive meeting of 4th April 2006 and other information held on the Property Services file, subject to confidentiality on any exempt negotiations.

Annexes: Annex 1 – Plan showing the extent of the property
Annex 2 – Heads of Terms of the Development Agreement -
Confidential Information