

Executive

29 September 2016

Report of the Director of Place

Portfolio of the Executive Member for Finance and Performance

Proposed Long Term Leases – Fishergate Postern Tower and Ovington Cricket Club, Little Knavesmire.

Summary

1. This report seeks an Executive decision on granting 2 long term leases to Friends of York Walls at Fishergate Postern Tower and Ovington Cricket Club at Little Knavesmire

Recommendations

2. The Executive are requested to agree to the letting of Fishergate Postern to The Friends of York Walls (a charitable incorporated organisation) for a Term of 30 years at a peppercorn rent in accordance with the lease terms as set out in the Council's Asset Transfer Policy.

Reason: To enable an unused scheduled ancient monument to be utilised and improved.

3. The Executive agree to grant a new lease to Ovington Cricket Club for a Term of 35 years at an initial rent of £580 per annum (with an Retail Price Index increase every 5 years)

Reason: In order for the club to continue a long established playing association on Little Knavesmire

Background

Fishergate Postern Tower

4. Fishergate Postern Tower is a 3 storey Grade 1 listed scheduled ancient monument which dates back to the 16th century. It forms part of the city walls at the junction of Piccadilly and Lead Mill Lane. Access to the upper floors is by way of a narrow spiral staircase only and there are no utility services connected to the building.

5. In 2011 the Council was approached by The Friends of York Walls (FOYW) to let the property on a long lease with the aim to turn the tower into a visitor attraction/meeting place with a small cafe. This proposal was supported by the City Archaeologist. The reasoning for a long lease was to enable the group to apply for funding to undertake capital works to improve and restore the tower.
6. In September 2011 Cabinet, allocated £20,000 towards making the tower wind and watertight. This money has not yet been spent. It is proposed that this will be allocated to FOYW once they are the tenant.
7. A 30 year lease has been agreed with FOYW in accordance with the Council's Community Asset Transfer Policy. It will bring into beneficial use a building which has been vacant and unused for many years. The lease will permit FOYW to operate the building as a public visitor attraction facility with associated gift shop and community space but the lease does not oblige the tenant to open the building to the public. The plan attached (Annex 1) shows the extent of the proposed letting outlined in red with a right of access shown shaded yellow. The lease will oblige the Council as landlord to maintain and repair the structure and exterior of the building in return for FOYW paying the Council a service charge capped at £500 per annum. The lease will oblige FOYW to maintain and repair the interior non-structural parts of the building.

Advantages

- It brings into beneficial use a building which has been vacant and unused for many years.
- Enables a coordinated approach to be made to seek funding to install services into the building and allow it to be sympathetically refurbished and reopened to the public.

Disadvantages

- Such a letting to the voluntary group will not generate any rental income for the Council.

Ovington Cricket Club

8. Ovington Cricket Club currently have a 21 year lease which expired on 18 July 2016. The club has however played on the same site since 1936. The lease covers a plot of land being the site of the cricket pavilion and the use of the cricket pitch as shown on the attached plan.(Annex 2)

9. The original air raid shelter which acted as the pavilion has been removed and replaced with a brick built modern structure built at the expense of the cricket club and extended over the years. The club has also constantly improved the playing surface at their own expense.
10. The club has also been granted planning permission under 14/02205/FUL to extend the pavilion with a 2 storey extension. This will require a small area of land adjacent to the pavilion and classed as Public Open Space to be incorporated into the lease. Permission is required to advertise a proposed disposal of Public Open Space under S.123 of the Local Government Act 1972.
11. The club has requested a long lease of 35 years plus a small increase in land let in order to apply for grants to improve their facilities and to continue playing cricket on their long established site

Advantages

12. This will enable the club to have a sustainable future and to be able to meet funder's requirements for grant aid

Disadvantages

13. A small amount of additional land will be taken out of public use

Consultation

Fishergate Postern Tower

14. Friends Of York Walls have publicised the project in the local press, website and social media. They have opened the building on a number of occasions since 2011 and have 25 planned open days during 2016. Since 2012 they have had a 'Sponsor a Stone initiative' to raise funds towards the refurbishment and reopening of the tower. The current total stands close to £7,000

Ovington Cricket Club

15. Discussions have been held with Parks & Open Spaces and Sports & Active Leisure and they have confirmed that the continuation of the lease and the improvement of the facilities are complimentary to the Councils Health and Well-being strategies.
16. Section 123 of the Local Government Act 1972 requires that before any 'open space' land is disposed of (including pursuant to a lease), the proposed disposal is advertised in a local newspaper and that due consideration is given to any objections or other comments received from the public. 'Open Space' includes any land used for the purposes

of public recreation. If the land is currently (or has recently been) used by the public for recreation then a formal S123 consultation will need to be undertaken to advertise a proposed disposal of Open Space for the small additional area identified on the plan.

Council Plan for 2015 - 2019

17. Under the Council Plan these proposal will assist in supporting;

- A prosperous city for all
 - Local residents enjoy a facility to promote creativity and the well being of those in the neighbourhood.
 - Residents can enjoy use of a building which is part of the city's unique heritage and be included in a range of activities.
- A focus on frontline services
 - Everyone has access to opportunities regardless of their background
 - Residents are encouraged and supported to live healthily
- A council that listens to residents
 - Engaging with the community to provide creative space for local residents

Implications

18.

- **Financial** – Fishergate Postern Tower - The proposed letting will facilitate improvements being undertaken to a council asset with a council outlay of £20,000. The asset however will not generate a rental income.
- Ovington Cricket Club – There will be a small increase in annual income from the slightly larger area to be leased.(£197)
- **Human Resources (HR)** - none
- **Equalities** - none
- **Legal** –
 - (i) Fishergate Postern Tower – if the Council does give a grant or loan of £20,000 (or another amount) to FOYW towards the cost of repair works, it is recommended that this be recorded with a formal Grant Agreement specifying what purpose the money can only be used for and in what circumstances the money will be repayable by FOYW to the Council.

(ii) Ovington Cricket Club:

Under S.123 of the Local Government Act 1972:

Before disposing (including granting a lease) of 'open space' the Council must advertise the proposed disposal in two consecutive editions of a local newspaper and give due consideration to any objections or other comments received in response to the advertisement. 'Open Space' includes any land used for the purposes of public recreation. It is understood that the public may use this land for recreation since it forms part of Micklegate Stray. The land in question is unoccupied and undeveloped and therefore could fall within the definition of open space. It is considered that before the Council grants the lease the proposal should be advertised and any objections or other comments should be properly considered. The land is part of Micklegate Stray, which was vested in the Council by the Micklegate Stray Act 1907 with an obligation on the Council to maintain Micklegate Stray as open space for recreation by the city's residents. The 1907 Act does expressly state that the Council can lease out parts of Micklegate Stray for various purposes, including for use as a racecourse.

Crime and Disorder – none

Information Technology (IT) - none

Property – contained in the report

Public Health – none

Planning – Fishergate Postern Tower Scheduled Ancient Monument Consent will be required for the alterations and installation of public utilities.

Risk Management

19. Fishergate Postern Tower – The new lease is not subject to Scheduled Ancient Monument Consent for the alterations. If consent is not obtained, whilst the future plans for the use of the tower may have to change, FOYW have indicated the feasibility of creating the visitor attraction should not be affected.

The risk therefore is **low** and is currently being managed well by FOYW.

20. Ovington Cricket Club – As stated in paragraph 10, the proposed new pavilion requires the additional land. If this was not available, the club

would still take a new lease and remain in its current building, although this would reduce the quality of the facilities for use by the club and others.

The risk is considered to be **low** and there is an alternative way forward as detailed above.

Contact Details

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Report
Approved



Date *20 September 2016*

Specialist Implications Officer(s)

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Wards Affected: Guildhall, Micklegate

All

For further information please contact the author of the report

Background Papers:

Annexes

Annex 1 – Site Plan Fishergate Postern Tower
Annex 2 – Lease Plan – Ovington Cricket Club