

Name of meeting: Cabinet
Date: 13 April 2021
Title of report: Community Asset Transfer of Manor Gardens, off Manor Way, Staincliffe, Batley, WF17 7BX

Purpose of report:

This report requests that Cabinet considers and approves the Community Asset Transfer of Manor Gardens, off Manor Way, Staincliffe, Batley, WF17 7BX to Hamm-Damm Foundation CIO.

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|---|---------------------------------------|
| Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards? | No |
| Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u>? | No |
| The Decision - Is it eligible for call in by Scrutiny? | Yes |
| Date signed off by <u>Strategic Director</u> & name | 26 March 2021 |
| Is it also signed off by the Service Director for Finance? | 30 March 2021 |
| Is it also signed off by the Service Director for Legal Governance and Commissioning? | 29 March 2021 |
| Cabinet member portfolio | Cllr Graham Turner (Corporate) |

Electoral wards affected: Batley West

Ward councillors consulted: Cllr Yusra Hussain, Cllr Gwen Lowe, Cllr Shabir Pandor

Public or private: Public

Has GDPR been considered? Yes, GDPR has been considered. The information in this report does not identify any individuals.

1. Summary

- 1.1** Manor Gardens is located at Manor Way, Staincliffe, Batley, WF17 7BX. The site is an area of open space located between Woodfield Avenue and Manor Way, Batley.
- 1.2** The freehold of the site is owned by Kirklees Council. Plan Reference 21-0088, which is attached in Appendix A, shows the boundary of the site indicated by a red line. The land extends to 4105 square metres.
- 1.3** The land forms part of a larger area originally acquired by Dewsbury Corporation in 1946 for the provision of council housing. Prior to 2016 the land was unused and overgrown.
- 1.4** The land is designated Urban Green Space in the Local Plan.
- 1.5** The Hamm Damm Foundation (the 'Foundation') is a Charitable Incorporated Organisation (CIO). The Foundation has leased the site from the Council since 2016. The lease is for a term of seven years at a peppercorn rent. Use of the land is restricted to *the growing of produce by members of the Association principally for the consumption by members of the Association and their families.*
- 1.6** The Foundation has put forward proposals for an asset transfer of the site. It is proposed that the asset is transferred on a 125 year lease.

2. Information required to take a decision

- 2.1** The Council's Community Asset Transfer Policy was updated and subsequently approved by Cabinet in September 2020. The Policy continues to support groups to transfer assets from the Council at nil consideration in order to further local social, economic and environmental objectives. A copy of the Community Asset Transfer Policy is attached in Appendix B.
- 2.2** The Policy allows for assets to be transferred either through a long-term lease or, in exceptional circumstances, a freehold transfer. Both options will normally be subject to covenants that restrict the use of the asset to community use. The Policy allows an element of commercial use if this is considered necessary for a successful business model. Commercial use of the asset will normally be restricted to a maximum of 30%.
- 2.3** Hamm Damm Foundation is a Charitable Incorporated Foundation (CIO) which actively promotes public health, learning and social inclusion through gardening and horticultural activity.
- 2.4** In 2018 the Trustees of the Hamm Damm Foundation submitted an expression of interest for transfer of the Manor Way site in Batley under the Community Asset Transfer Policy.
- 2.5** In line with the Policy the Trustees were invited to develop a full application and business plan which was finalised in October 2020. The business plan includes details of financial planning, the Foundation's governance, policies and intended use for the land.
- 2.6** The business plan sets out the short and medium to long term development proposals for the site. The immediate focus will be on the installation of mains electric, water and provision of welfare facilities. In the medium term the intention is to develop a new low-impact modular building providing workshop and meeting room space to allow the Foundation to expand on the current range of activities and support to the community.

- 2.7** The application and business plan have been assessed by officers taking into consideration the community engagement and intended use of the site, governance and capacity of the applicant group, funding and the financial viability of the project.
- 2.8** Since 2016 the Foundation has invested in the clearance and development of the Manor Gardens land creating a successful community garden and food growing project which serves the Staincliffe and wider community. The Foundation has invested in two poly tunnels for out of season growing, creation of raised beds, growing plots and surfaced pathways to improve accessibility. More recently infrastructure has been laid to bring mains power and drainage onto the site.
- 2.9** In developing the site the Foundation has worked closely with the community and partner organisations to ensure that the project meets the needs of the community. Activities support local schools, youth organisations, older person and faith groups.

As well as providing produce to the local community, the Foundation supports the local food bank with fruit and vegetables grown at Manor Gardens.

The garden hosts community events including the annual Great Get Together inspired by the late Jo Cox MP and acts as a hub for members of the community to meet, engage, share experiences and celebrate their achievements.

- 2.10** To date the Foundation has secured funding in excess of £106k for the project including £28k from the Kirklees 'Do Something Now' investment fund. Funding bids have been submitted and are progressing for a further £180k from the Tudor Trust and National Lottery Reaching Communities Fund which will support further investment in facilities on the site allowing the Foundation to offer a wider range of activities and support. Offers of grant funding are subject to the Foundation securing a long leasehold in the site.
- 2.11** The Hamm Damm project is located within the Batley West Ward in an area ranked within the worst 10 to 20% according to national Index of Multiple Deprivation statistics.

Options

The Council has the following options:

- a) Refuse the request for an asset transfer

The Community Asset Transfer Policy supports the Council's ambitions allowing local people and communities greater control over local assets and the services delivered from them.

Refusal of the Asset Transfer would restrict the Foundation's ability to secure grant funding to improve the facility and in turn potentially affect the long-term viability of the site and the services delivered from it.

For these reasons' officers are of the opinion that this is not the recommended option.

- b) Transfer the site either freehold or leasehold with restrictive covenants for community use with an exception of up to 30% commercial use in line with other Community Asset Transfers and in line with the Community Asset Transfer Policy.

The freehold of the site can be transferred; however, officers are of the opinion that this is not appropriate. Whilst transfers can contain covenants to ensure that the site is restricted to community use and remains available to the community, a freehold transfer

limits the Council's ability to intervene in circumstances where the Foundation failed to fulfil its obligations.

Officers are of the opinion that the grant of a long leasehold for a period of 125 years in accordance with the Community Asset Transfer Policy 2020 is appropriate. The grant of a long leasehold gives the Foundation the security needed to satisfy grant funder requirements. The lease will include a restrictive covenant that the site is used for community use with provision, if required, for the Foundation to sub-let up to 30% of any buildings space for commercial use to support the running and long-term sustainability of the facility.

Officers are of the opinion that the lease should be on the basis of a peppercorn rent for the full term, with the Foundation being responsible for the full repair and insuring of the site.

The grant of a long lease provides the Council with remedies in the event that there is a breach of the terms of the lease.

c) Transfer the site without restrictive covenants in place

Whilst this approach has not been previously adopted by the Council, it is recognised that, subject to Cabinet approval, the Community Asset Transfer Policy does allow the transfer of assets without restrictive covenants. There is however a risk that the site could be lost as a community facility were covenants not included in the transfer. Officers are of the opinion that this should not be the recommended option on the grounds that the future use of the site as a community facility could be lost to the local community.

Valuation

2.12 Unrestricted Value

The unrestricted value is the best price reasonably obtainable for the property and should be expressed in capital terms. It is the market value of the land as currently defined by the RICS Valuation – Global Standards 2017 – VPS 4, except that it should take into account any additional amount which is or might reasonably be expected to be available from a purchaser with a special interest (a "special purchaser"). When assessing unrestricted value, the valuer must ignore the reduction in value caused by any voluntary condition imposed by the authority. In other words, unrestricted value is the amount that would be paid for the property if the voluntary condition were not imposed (or it is the value of the property subject to a lease without the restriction).

The unrestricted value of Manor Gardens is: £25,000

Restricted Value

The restricted value is the market value of the property having regard to the terms of the proposed transaction. It is defined in the same way as unrestricted value except that it should take into account the effect on value of any voluntary condition(s).

The restricted value of Manor Gardens is: £ 25,000

Voluntary Conditions

A voluntary condition is any term or condition of the proposed transaction which the authority chooses to impose. It does not include any term or condition which the authority is obliged to impose, (for example, as a matter of statute), or which runs with the land.

Nor does it include any term or condition relating to a matter which is a discretionary rather than a statutory duty of the authority.

The value of voluntary conditions in the proposed transaction is: £ Nil

2.13 Amount of discount given by the Council

The difference between the unrestricted value of the land to be disposed of and the consideration accepted (the restricted value plus value of any voluntary conditions).

The amount of discount in the proposed transaction is: £25,000

The Local Government Act 1972 General Disposal Consent (2003) means that specific consent of the Secretary of State is not required for the disposal of any interest in land/buildings at less than best consideration which the authority considers will help it to secure the promotion or improvement of the economic, social or environmental wellbeing of its area.

Following assessment, Council officers are confident that the asset transfer of Manor Gardens to Hamm-Damm Foundation will continue to promote the social well-being of the Batley West Ward.

3 Implications for the Council

- **Working with People**

The proposals for the asset transfer of Manor Gardens have been developed in conjunction with the trustees of the Hamm Damm Foundation. Community Asset Transfers involve supporting community initiative and helping communities to solve their own problems. Community consultation is a key part of the asset transfer process, ensuring that the asset meets the needs of the community. Ward Members are consulted as part of the Cabinet reporting process and are given opportunity to make representations on behalf of the community.

- **Working with Partners**

Partnership working is crucial to the success and sustainability of community asset transfers within Kirklees. Officers work collaboratively with the applicant group, council services and Locality, a national charity, in the development of asset transfer proposals. Locality is a national charity working with community foundations at a local level to ensure that they are strong and successful.

Groups are actively encouraged and provided with necessary support to ensure that partnership opportunities are fully explored.

- **Place Based Working**

Community Asset Transfer supports Place Based Working, providing an opportunity for a more efficient and effective use of buildings and land currently owned by the council. It gives local people and communities greater control over local assets and the services delivered from them, and provides new opportunities to develop and improve land and buildings for local social, economic and environmental benefit. The Community Asset Transfer Policy has been updated to ensure it is consistent with the Council's Vision of giving local people and communities' greater control over local assets and the services delivered from them.

The asset transfer process, as set out in the updated policy, requires that full community consultation and engagement is carried out as part of an asset transfer application. This ensures that local residents, stakeholders and businesses have a say and inform how community assets can help shape their places.

- **Climate Change and Air Quality**

Community allotments have been shown to support climate change initiatives particularly those associated with reducing food waste, composting and the resultant reduction in landfill.

Allotment gardens, particularly those in urban areas, provide valuable habitat for biodiversity providing a refuge for wildlife.

- **Improving outcomes for children**

Community assets play a crucial role in the delivery of services to all members of the community, including young people.

The transfer of community assets can maximise their use and provide a place for children, their families, communities and services to work together to provide positive childhood experiences.

- **Other (eg Legal/Financial or Human Resources)**

Under the proposals the Council will be forgoing a potential capital receipt of £25,000. There are no revenue income or expenditure implications.

- **Do you need an Integrated Impact Assessment (IIA)?**

Yes. IIA attached at Appendix C

4 Consultees and their opinions

Ward member comments

All Ward members responded to confirm their full support for the Hamm Damm Foundation and proposed community asset transfer.

Next steps and timelines

- 5.1** Subject to Cabinet approval, Officers will complete negotiations and agree terms of the transfer and instruct the Service Director - Legal, Governance and Commissioning to enter into and execute the transfer.

5 Officer recommendations and reasons

It is recommended that:

- 6.1** Authority be delegated to the Director of Development to negotiate and agree terms for the grant of a 125 year lease of the land at Manor Gardens, off Manor Way, Staincliffe, Batley to Hamm Damm Foundation CIO, for the reasons set out in the body of the report.
- 6.2** Authority be delegated to the Service Director - Legal, Governance and Commissioning to enter into and execute all necessary documentation in connection with the grant of a 125 year lease of the land at Manor Gardens, off Manor Way, Staincliffe, Batley to Hamm Damm Foundation CIO.

6 Cabinet Portfolio Holder's recommendations

The Hamm Damm foundation have over recent years made a real difference to a piece of land that had little value, they have been successful in securing funding, to not only improve the site over recent years but have secured funding to improve the site even more in the coming years.

This is a great example of what a community can do when it works together to achieve its goal.

This facility provides a space for community activities, helps people grow their own food, provides residents with healthy outside activities, and also supports the local food bank.

I fully endorse this transfer and wish the foundation all the best for the future.

7 Contact officer

Giles. Chappell (Asset Strategy Officer)

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8 Background Papers and History of Decisions

Appendix A - Red Line Boundary plan (Ref.21-0088)

Appendix B - Community Asset Transfer Policy 2020

Appendix C - Integrated Impact Assessment

9 Service Director responsible

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