

CABINET

DATE	3 rd April 2024
REPORT OF	Councillor Stephen Harness - Portfolio Holder for Finance, Resources and Assets
RESPONSIBLE OFFICER	Sharon Wroot – Executive Director Place and Resources
SUBJECT	DISPOSAL OF PROPERTY AT LESS THAN BEST CONSIDERATION – Lease disposal Land at Bradley Road, Grimsby, DN37 0XA.
STATUS	Open
FORWARD PLAN REF NO.	CB 04/24/03

CONTRIBUTION TO OUR AIMS

The disposal of the buildings, poly tunnels and adjoining land (the “Site”) by way of a 99-year full, repairing, and insuring lease will enable Green Futures Greater Grimsby Limited, a Registered Charity (the “Group”) to continue with the management, maintenance, and operation of the Site. Providing a lease agreement on the above terms at a peppercorn rent is based on the submission of a detailed Business Case proposal setting out the economic, environmental, and social return on investment; the benefits of which far outweighs the monetary value requested in rent.

The lease term will allow the Group to continue to manage, and where possible invest in the Site and will allow for greater external funding opportunities in support. The lease disposal supports the Council’s outcome of ‘Stronger Economy’ by enabling the Group to lease the Site for a sufficient period and by granting the rent at a peppercorn, ensures the proposal remains sustainable for the longer term. This would also ensure that no financial constraint is placed on the Council which would support our determination to be an efficient and effective Council.

The lease will also contribute directly towards the Council’s aim of supporting the development of ‘Stronger Communities’ by empowering the Group to take on localised ownership, shaping their own future, providing support and opportunities for vulnerable groups, school groups, residents and the local community, and visitors. By enabling this lease, the Council will take reasonable steps to ensure that any term is viable for tenants and does not put local communities at financial risk.

EXECUTIVE SUMMARY

This report seeks authority to dispose, by way of a 99-year lease, the subject Site; being land at Bradley Road, Grimsby. The purpose of this report is to gain agreement to a proposal from Green Futures, which will provide a social return on investment; at a far outweighed monetary equivalent to otherwise proposed rent as part of the Council’s approach to Community Asset Transfers. Approval to the proposal will allow the granting of a lease of this Site over the above term at a peppercorn rent (£1 per annum, if demanded).

RECOMMENDATIONS

It is recommended that Cabinet:

1. approves the granting of a lease to Green Futures Greater Grimsby Limited of the subject Site for a term of 99-years at a peppercorn rent (£1 per annum if demanded).
2. delegates authority to the Executive Director Place and Resources in consultation with the Portfolio Holder for Finance, Resources and Assets to settle heads of terms and to complete the disposal and further, to deal with any ancillary issues reasonably arising.
3. delegates to the Assistant Director Law and Governance (Monitoring Officer) authorisation to complete all requisite legal documentation in relation to the matters outlined above.

REASONS FOR DECISION

A proposal has been received from Green Futures which has been considered as part of the Council's approach to Community Asset Transfers (CAT). The proposal has been agreed in principle recommending the transfer of the subject Site to the Group by virtue of a 99-year full, repairing, and insuring lease. The lease would continue to support the current management and operation of the Site by the Group who have demonstrated, through a detailed Business Case that their proposal is sustainable and viable over the term of the lease and ensures there is no cost associated with the proposal of the Site to the Council.

1 BACKGROUND AND ISSUES

- 1.1 The Council is the freehold owner of the subject Site; as shown edged red on the attached plan at Appendix One.
- 1.2 The Site was previously occupied by the Council as a Grounds Maintenance Nurseries. An existing lease to Green Futures commenced 2d March 2011 following the decision by the Council that the Site was surplus to requirements.
- 1.3 The Council has an agreed Community Asset Transfer (CAT) approach to consider proposals where certain organisations and groups demonstrate they contribute significant social, economic, or environmental benefits to the community - benefits which can be taken in lieu of the monetary value being demanded in rent. The CAT approach allows proposals to be considered through an agreed governance process, including in principle support at key milestones and resulting in formal cabinet approval.
- 1.4 The proposal, by way of a detailed Business Case was received from the Group and considered by the CAT Panel and recommended to progress for an in-principle agreement at the Estates Programme Board. The proposal was recommended for approval in principle and supported by the Executive Director Place and Resources and the Portfolio Holder for Finance, Resources and Assets on the 15 February 2024.

- 1.5 When considering proposals such as these, the Council must demonstrate the social return on investment reflects, as a minimum, the loss of any potential rent, and reasons that a rent element could impact negatively on the sustainability which may result in the management of a site becoming unsustainable.
- 1.6 The Council has been satisfied that the proposal to approve a 'less than best' transaction is based on sufficient social and economic benefit, which is stated as part of the submitted Business Case. The Business Case received far outweighs the monetary value that could be requested in rent and supports wider community benefits which are a direct contribution to the Council's outcomes of 'Stronger Economy' and 'Stronger Communities'.
- 1.7 The proposal to set the level of rent at a peppercorn would ensure the use and management of the Site remains sustainable, with the monetary value being realised through social benefit. The obligations for repair and maintenance of all aspects of the Site will be that of the Group, as would all future investment opportunities.

2 PROPOSAL

- 2.1 A proposal received from Green Futures sets out the Group's objects to continue to deliver a continuous programme of projects for the community, vulnerable groups, and school trips which they have successfully achieved to date since the organisation took occupation of the Site under a commercial lease agreement in March 2011. Much of the work has concentrated on managing and maintaining the Site, making cosmetic improvements to the buildings and classrooms to support their weekly workshops delivering facilitated craft activities, seated yoga, an older people's walking group, crafts for dementia groups, indoor soft bowls, and curling. The Group have maintained & improved the condition of the polytunnels, orchard and woodland area in preparation for outdoor activities, artisan markets and community based outdoor classes and learning. This programme of maintenance has provided a safe and secure environment, accessible by all aspects of the community.
- 2.2 Should the proposal be agreed, and a lease be granted, the Group will have full autonomy to concentrate on improving the sustainable provision of leisure and recreational use of the Site, and to enhance the biodiversity of the area and make investment in the security of the Site to deter anti-social behaviour.
- 2.3 The proposal outlines engagement which has taken place with the trustees, members and organisations that access and use the Site. The premises on Site have benefitted from some investment and funding to improve its condition for continuing use; however, there are further parts of the Site in need of improvement which will result in maximising the offer and use by the wider community.
- 2.4 The proposal sets out the benefits to the community and how the Site is used as a 'hub' to support wider community groups, local schools, and artisan markets. There is also the ability that, with further investment, the Site could provide an outdoor community classroom in the woodland area for a broader range of activities offering a unique venue for community events.
- 2.5 The Group are keen to continue developing and managing the Site and in

progressing this proposal, the Group demonstrates the sustainability and viability required in the longer term. The longer lease terms also allow for the potential to draw external funding to invest in the Site.

- 2.6 The CAT panel members voted in favour for progressing with the proposal. It is clear to see the Group has established a successful operating model for the premises during the period of their current occupancy and are enthusiastic, knowledgeable and are very active in continuing their profile and involvement in the local and wider area.
- 2.7 The proposed lease would be granted on a full, repairing, and insuring basis across the 99-year term. This would maintain the current position whereby the Council would not incur any ongoing maintenance costs for the Site.
- 2.8 The proposal and social return on investment provides sufficient assurance of the viability of the proposal in respect to the financial standing of the Group and that they have the necessary resources in place required in managing this type of Site.

3 CONSTITUTIONAL REQUIREMENTS

- 3.1 The Constitution includes a Protocol on Disposal of Land for Less than Best Consideration (“the Protocol”) which contains eight specific procedural requirements that must be addressed and included in any report seeking authority to dispose at less than market value or market rent as follows:

(i)	A valuation report, undertaken by a Chartered Surveyor (Valuer), setting out the restricted and unrestricted values of the property
The Council’s qualified Chartered Surveyor has provided a valuation report which contains the following key information.	

Unrestricted Value (i.e. market value as a capital sum)	£25,000 (Twenty-five thousand pounds)
Less Restricted Value (i.e. market value subject to proposed lease)	£1 (One pound)
Equals Discount (i.e. total amount of undervalue)	£24,999 (Twenty-four thousand nine hundred and ninety-nine pounds)

The above figures are based on the current market value and the market value under the terms of the proposed transaction and is the amount that will not be received by the Council if the proposal is approved.

(ii)	An assessment with supporting evidence of the capital value to the Council of those benefits of the proposal which are capable of monetary assessment together with an assessment with supporting evidence of the value of non-monetary benefits (i.e. social, economic, and environmental benefits)
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The value of the proposed lease in non-monetary terms cannot be quantified. Nevertheless, a transfer to the Group supports the Council's outcomes of a 'stronger economy' and 'stronger communities'. It provides the Group with the opportunity to improve a key asset to the community and to continue with management and maintenance of the Site. The proposed lease includes all of the maintenance costs associated with the Site remaining with the Group, thus ensuring no change in the financial position to the Council.

The Group's commitment to provide a local community amenity will improve community spirit and health and well-being, help to tackle anti-social behaviour, and boost local prosperity.

These outcomes affect peoples' lives and cannot be directly quantified. Notwithstanding there is a significant cost to the Borough in dealing with issues and any opportunity to reduce the numbers of those affected must be embraced.

(iii) Confirmation that the disposal will contribute positively to the Council's priorities.

The CAT will contribute positively to the ongoing active management and use of the Site in support of the Council's objectives including 'Sustainable Communities', 'Feel Safe and Are Safe' and 'Health and Wellbeing'.

(iv) A statement that the benefits that the Borough will derive from the proposed disposal cannot be achieved unless the lease takes place at an undervalue rent and confirming that no reasonable alternative means of funding are available to the purchaser.

The Group are dependent upon a 'Less Than Best' Lease agreement to enable them to continue with the management and maintenance of the Site on behalf of the local Community.

(v) In cases where the proposed disposal is to an identified person/organisation without a tender process, this should be subject to consideration of a robust business case and an analysis of the financial standing of the organisation/person.

A full Business Case has been received and considered. The Group is of sound grounding and can provide an enhanced asset to benefit both the residents and the wider community.

(vi) Details of the proposed terms of the transaction which will ensure that the disposal will contribute to the achievement or improvement of the social, economic, and environmental wellbeing of the area.

NOTE: In considering the application of the wellbeing criteria under the General Disposal Consent, the Council must have regard to the Community Strategy and reasonably consider the extent, if any, to which the proposed disposal supports the aims and objectives in the Strategy

A summary of the Headline terms is below:

<ul style="list-style-type: none"> • A 99-year lease term • Peppercorn rent (£1 if demanded) • Full, Repairing and Insuring by the tenant • Restricted to Community Uses throughout the term
(vii) A statement from the Monitoring Officer on whether it is considered that the disposal is capable of falling within the terms of the General Disposal Consent.
See Section 12 of this Report “Legal Implications”
(viii) A statement from the Section 151 Officer in relation to the financial implications of the proposal, particularly in respect of the impact on resources for capital spending as set out in the Medium-Term Financial Plan. <i>There must be demonstrable evidence that the outcome of any undervalue disposal will be equally beneficial to a disposal at market value</i>
See Section 11 of this Report “Financial Implications”

- 3.2 ESTATES PROGRAMME BOARD - The Protocol also requires that any proposal to dispose at less than best consideration should, in the first instance, be referred to the Board for consideration of a business case and options appraisal.
- 3.3 SUBSIDY CONTROL RULES The Subsidy Control Act 2022 is relevant here. It establishes rules for public authorities in striking a balance between enabling benefits from subsidies whilst limiting harmful impacts, such as market distortion. Public authorities may give subsidy of less than £315k as minimal financial assistance. The Council have confirmed with Green Futures that with the subsidy to be provided under the lease, the total amount of grants obtained during the relevant period will not exceed the £315k amount. As such the Council can proceed in compliance with the Subsidy Control Act relying on minimal financial assistance.

4 RISKS AND OPPORTUNITIES

- 4.1 The risk to the Council in progressing with a lease to the Group is considered minimal. In the scenario of a lease, should the proposal no longer be viable, the option to relinquish the Site back by the Council and ultimately seek alternative opportunities would be pursued which could mitigate against the Council incurring any future holding costs.
- 4.2 Future risks remain with the Group in respect to the management and operational costs of maintenance etc. and the obligation of repair and maintaining the Site to an acceptable standard to ensure ongoing use.
- 4.3 There are potential positive identifiable environmental sustainability implications because of the proposal, as it is the intention that the condition of the Site will be maintained and improved based on its current operational use. The long lease will allow the Group to continue with management of the Site and would allow for potential funding to be obtained, allowing for further

investment and improvements.

- 4.4 The disposal will enable the Group to direct resources and funding towards ongoing management resulting in increased usage which will continue to provide a positive reflection to the street scene within this part of the borough, reduce miss-use or antisocial behaviour and will ensure there is no future ongoing financial commitment to the Council.

5 OTHER OPTIONS CONSIDERED

- 5.1 To do nothing would see the Group continue to occupy the Site under restricted terms and be unable to develop their proposals and seek future funding opportunities to improve the Site for the benefit of the residents and community. As a result, the Site use would continue to be managed as is, which could be at a detriment to the Group in remaining viable in the longer term. This option is therefore not considered viable.
- 5.2 The freehold disposal of the Site has not been considered at this time. This is in respect of the Council's continued interest in the use of the land and mitigating risk in the event the Group are unable to continue with maintaining the Site. In such circumstances where the proposal is no longer viable, which impacts on the on-going use of the Site, the Council could take action to seek an alternative use of the Site or to prevent any unauthorised uses of the Site which a freehold disposal would remove.

6 REPUTATION AND COMMUNICATIONS CONSIDERATIONS

There are positive reputational implications for the Council resulting from the decision to support a new longer-term lease to the Group. The lease agreement will primarily enable continued use of the Site but will allow future investment opportunities for enhancement as well as a continued localised management offer for the benefit and use by local residents and the community. The Council's communications service has been briefed of the proposal and will issue any information requirements in respect to this proposal.

7 FINANCIAL CONSIDERATIONS

- 7.1 The proposal outlined within the report supports the Council's key outcome of 'stronger communities', by enabling the Group and the residents and community to use and enhance the Site.
- 7.2 The repair and maintenance cost of the Site will be financed through resources obtained by the Group. Any future investment will be subject to the Group's own resources and access to external grant funding.
- 7.3 On an ongoing basis the proposal will require no capital and revenue expenditure to be provided by the Council. This is consistent with the Council's policy to contribute to improved value for money and supports the financial objective and our determination to be an efficient and effective Council.

8 CHILDREN AND YOUNG PEOPLE IMPLICATIONS

The Site will continue to be used as it is now, with proposals to invest and enhance the Site and its facilities which will result in positive implications so far as Children and Young People.

9 CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

The recommendations outlined within this report have been considered so far as their impact of the proposal on climate change and the environment. In reference to the Council's environmental policy, the proposal supports the Council's environmental priorities:

- By recognising and realising the economic and social benefits of a high-quality environment.
- By working towards a low carbon North East Lincolnshire that is prepared for, and resilient to, the impacts of climate change.

10 CONSULTATION WITH SCRUTINY

There has been no consultation with Scrutiny to date.

11 FINANCIAL IMPLICATIONS

The long-term leasing out of the site will negate the need for ongoing revenue maintenance and future capital investment, whilst gaining a social return from the group's activities and investment.

12 LEGAL IMPLICATIONS

- 12.1 Local Government Act 1972, s123, provides that the Council may dispose of land in any manner it sees fit subject to the constraint that (except in the case of leases for less than 7 years) disposal must be for the best consideration reasonably obtainable.
- 12.2 The General Disposal Consent (England) 2003 provides a general consent removing the requirement for Local Authorities to seek specific approval from the Secretary of State for a wide range of disposals at less than best consideration. Authorities are granted consent in circumstances when the undervalue does not exceed £2m and where the disposing Authority considers that the disposal is likely to contribute to the achievement of the promotion or improvement of the economic, social or environmental wellbeing of the whole or any part of the area (the general power of wellbeing).
- 12.3 Constitutionally and as outlined in the above report the Protocol on Disposal of Land for Less than Best Consideration requires that the Council receives a statement from the Monitoring Officer on whether it is considered that the proposed lease is capable of falling within the terms of the General Disposal Consent (England) 2003.
- 12.4 Cabinet is advised that this proposed disposal is capable of falling within the terms of the consent for the following reasons:
- 12.4.1 the amount of undervalue would be below the £2m threshold.
 - 12.4.2 it is the professional opinion of the Executive Director Place and Resources that in granting this disposal the monetary loss is outweighed by the positive social, economic and environmental benefits of the proposal.
- 12.5 The Scheme of Delegation in the Constitution provides for the Executive Director Place and Resources to refer any proposed disposal at an undervalue to Cabinet in accordance with the Protocol on Disposal of Land at Less than

Best Consideration and maintain a register of all undervalue disposals. This report therefore complies with those provisions.

12.6 In terms of subsidy control, the report sets out the required waypoints in assessing whether a subsidy exists and then seven further principles to consider in making a lawful subsidy. In the main, the content of the report satisfies those principles, but a further in-depth analysis will be carried out once any decision is made.

12.7 It is recognised and accepted that long term security of tenure can be advantageous to a provider and sometimes necessary to secure funding or render an investment capable of delivering a return.

13 HUMAN RESOURCES IMPLICATIONS

There are no direct HR implications.

14 WARD IMPLICATIONS

This proposal impacts on the Wolds Ward

15 BACKGROUND PAPERS

There are no background papers in respect of this proposal.

16 CONTACT OFFICERS

16.1 Joanne Robinson, Assistant Director of Policy, Strategy and Resources, NELC (01472) 323761

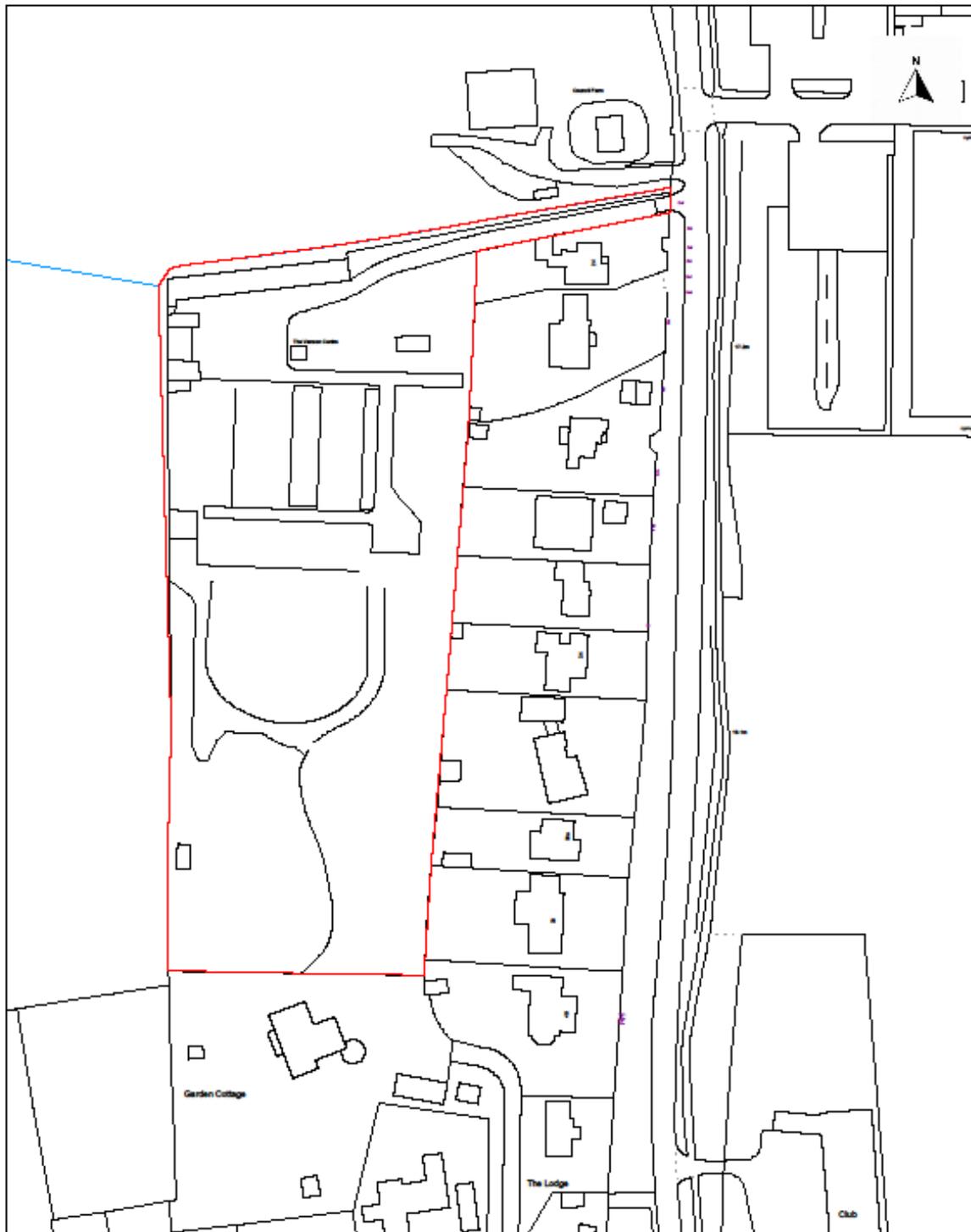
16.2 Chris Fairbrother, Head of Estates, NELC (01472) 325957

COUNCILLOR STEPHEN HARNES

PORTFOLIO HOLDER FOR FINANCE, RESOURCES AND ASSETS

APPENDIX ONE

Location Plan



0 25
metres
Scale 1:1,250

Details:
Vanson Nurseries
NLPG: 11085505
(A4)

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