



SHEFFIELD CITY COUNCIL Cabinet Report

Report of: Executive Director PLACE

Date: 25th August 2015

Subject: The J.G.Graves Charitable Trust
Proposed Letting of Agricultural Land at
Clough Lane and Mark Lane, Sheffield 10.

Author of Report: Dave Wood, Capital and Major Projects, Place

Summary:

A number of properties, including land at Clough Lane and Mark Lane, were acquired in the 1930's with money provided by the J.G. Graves Trustees, to be held on Trust by Sheffield City Council for charitable purposes to be let and managed as an 'agricultural estate'. After the costs of repair, maintenance, renewal and other expenses, the net income from the lettings is applied to the maintenance of the Barkers Pool Gardens and other charitable purposes (Charity Registration Number 260357).

The agricultural tenant of land at Clough Lane and Mark Lane has served notice to quit and the tenancy will terminate on 29th September 2015. This report seeks approval to recommendations for the re-letting of the land in accordance with the requirements of the Trust. Consent from Cabinet members acting on behalf of the Council in its capacity as corporate trustee of the charity is required to the proposed new letting.

Reasons for Recommendations:

The proposed new letting will ensure the land is managed in accordance with the terms of the gift and optimise the rental income available for distribution to the beneficiaries.

Recommendations:

That Cabinet acting for the Council as Charity Trustee in accordance with powers given to the Council as Trustee under the terms of the Conveyance to the Council resolve to:

1. Approve the granting of a ten year Farm Business Tenancy of land at Clough Lane and Mark Lane in accordance with the terms detailed in this report and the attached Appendix.
2. Authorise the Director of Capital & Major Projects to instruct the Director of Legal & Governance to complete the tenancy agreement in accordance with the approved terms and such other detailed provisions as he may consider appropriate to the letting.

Background Papers: None

Category of Report: OPEN/PART CLOSED

The Surveyor's Report and Appendix under Part 2 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)

Statutory and Council Policy Checklist

Financial Implications
YES Cleared by: Paul Schofield
Legal Implications
YES Cleared by: David Sellars
Equality of Opportunity Implications
NO Cleared by:
Tackling Health Inequalities Implications
NO
Human rights Implications
NO:
Environmental and Sustainability implications
NO
Economic impact
NO
Community safety implications
NO
Human resources implications
NO
Property implications
YES Cleared by Dave Wood
Area(s) affected
Fulwood
Relevant Cabinet Portfolio Leader
Cllr Ben Curran
Relevant Scrutiny and Policy Development Committee if decision called in
Economic and Environmental Wellbeing
Is the item a matter which is reserved for approval by the City Council?
NO
Press release
NO

The J.G.Graves Charitable Trust: Proposed Letting of Agricultural Land at Clough Lane and Mark Lane, Sheffield 10.

1. SUMMARY

- 1.1 The above land, along with other properties, was acquired in the 1930s with money provided by the J.G. Graves Trustees to be held by Sheffield City Council on trust for charitable purposes and let as an 'agricultural estate'. After the costs of repair, maintenance, renewal and other expenses, the net income from the lettings is to be applied in equal portions to the maintenance of the Barkers Pool Gardens and to the Spirit of Sheffield Children's Charity.
- 1.2 The tenant of the land has served notice to quit and the tenancy will expire on 29th September 2015. This report seeks approval to re-let the land following a tendering exercise.

2. WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

- 2.1 The proposed new letting will be on terms which both protect the exceptional landscape value of this area within the Mayfield Valley, in accordance with the spirit of Alderman Graves' gift, and optimise the net receipts available for charitable distribution.

3. OUTCOME AND SUSTAINABILITY

- 3.1 The proposed letting at an enhanced rent will help to ensure the long term sustainability of the Trust.

4. PROPOSED NEW LETTING

4.1 Background

The subject land is situated in the Mayfield Valley and consists of approximately 47 acres of grade 4 grassland in two blocks, within an area of exceptional landscape value. The land is held by the City Council by virtue of 3 separate acquisitions from the 1930's funded by Alderman JG Graves, all of which contain a covenant to use the land and buildings for 'agricultural purposes and to continue to be used for such purposes with power from time to time to let to such persons and at such costs as they (the Council) may think fit and generally to manage the same as an agricultural estate'.

Together with other properties acquired under similar terms, the 'estate' is held in the Fulwood, Whirlow and Birley Edge Suspense Account with surplus income over expenditure being distributed in equal portions between the Barkers Pool Gardens and the Spirit of Sheffield Children's Charity.

In past years the income of the Trust failed to generate sufficient net surplus to distribute funds to the named beneficiaries, but as backlog maintenance has been addressed and properties re-let on terms requiring tenants to carry out future repairs, surpluses have been generated and distributions made.

The subject land was previously let on an Agricultural Holdings Act tenancy from 1958 under the terms of which the rent was restricted to 'the productive capacity of the land and its related earning capacity'. The passing rent was £2,350 per annum.

4.2 **Letting process**

The letting has been advertised in the local press and offers of rent invited for a ten year Farm Business Tenancy.

4.3 **Proposed Terms**

- Period of the Tenancy:
Ten years from a date to be agreed.
- Repairs:
The tenant will be responsible for all repairs
- Rent reviews:
There will be a rent review after 5 years
- Use of the holding
- The land is to be used for agricultural grazing and mowing purposes only
- Subletting
Subletting is expressly prohibited.

Offers were received as detailed in the attached 'closed' Appendix.

5. **FINANCIAL CONSIDERATIONS**

- 5.1 The additional net rental income generated as a result of the proposed new letting will be applied in accordance with the charitable objects detailed in Paragraph 1 of this report.

6. **LEGAL IMPLICATIONS**

- 6.1 As stated in the body of the report, the Conveyance to the Council states that the land is held on a charitable trust by the Council for agricultural purposes and to continue to be used for such purposes with power from time to time to let to such persons and at such costs as the Council may think fit and generally to manage the same as an agricultural estate. This provides the Council with the power to grant lettings of the land for agricultural purposes, without the need to obtain the consent of the Charity Commission or make any application for a scheme to provide it with any additional powers.

- 6.2 Although the Council has the power, in its capacity as trustee of the charity, to grant the new letting, it must still comply with the provisions of the Charities Act 2011 in relation to the letting. Under Section 117 the trustee of a charity is under a duty to obtain the best price that can reasonably be obtained, upon a disposal of land held by the charity. A lease on the terms proposed in this report is classed as a disposal for the purposes of the Charities Act.
- 6.3 In relation to that general duty Section 119(1) of the 2011 Act provides that the trustee must, before entering into a disposal obtain and consider the recommendations of a report prepared by a qualified surveyor, instructed by and acting exclusively for the charity. The report in the Appendix to this report has been prepared in accordance with this statutory obligation and is attached for Cabinet's consideration.
- 6.4 The grant of a lease upon the terms set out in this report would be in compliance with the requirements contained in the Charities Act and would accord with the recommendations contained in the Surveyor's Report..

7. HUMAN RIGHTS IMPLICATIONS

- 7.1 There are no specific human rights implications arising from the proposed letting.

8 ENVIRONMENTAL AND SUSTAINABILITY IMPLICATIONS

- 8.1 The proposed new tenancy will include provisions to protect environmental features such as dry stone walls, hedgerows, trees, permanent grassland and wildlife habitats. Inappropriate uses such as blood sports and commercial shooting will be prohibited.

9 EQUALITY OF OPPORTUNITY IMPLICATIONS

- 9.1 There are no specific equal opportunities implications associated with this report.

10 ALTERNATIVE OPTIONS CONSIDERED

- 10.1 Freehold disposal of the land has been considered. Whilst it is understood that the specific consent of the Charity Commission would not be required for sale of the land and for the proceeds to be invested and the income applied to achieve the objects of the Charity, it is considered that sale would be contrary to the express intentions of the gift by Alderman Graves.

11. REASONS FOR RECOMMENDATIONS

- 11.1 The proposed new letting will benefit the Charity by securing an enhanced rent, increasing the net income available for distribution to the beneficiaries of the Trust.

12. REASONS FOR EXEMPTION

- 12.1 This report is presented as a partially closed item because the Surveyor's Report and Appendix under Part 2 contain exempt information under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended). The reason for these exemptions is because these attachments contain information relating to the financial or business affairs of a particular person.

13. RECOMMENDATIONS

That Cabinet Acting as Charity Trustees in accordance with the powers given to the Council as Trustee in the Conveyance of the land to the Council resolve to:

- 13.1 Approve the granting of a ten year Farm Business Tenancy of land at Clough Lane and Mark Lane in accordance with the terms detailed in this report and the attached Appendix.
- 13.2 Authorise the Director of Capital & Major Projects to instruct the Director of Legal & Governance to complete the tenancy agreement in accordance with the approved terms and such other detailed provisions as he may consider appropriate to the letting.

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