



Report to Policy Committee

Author/Lead Officer of Report: Tammy Whittaker Head of Regeneration and Property Service
Tel: 2734700

Report of: *Executive Director City Futures*
Report to: *Charity Trustee Sub-Committee*
Date of Decision: *15th September 2023*
Subject: **Lease of Arbourthorne Lodge, Norfolk Park**

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given?				
Has appropriate consultation taken place?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				
<i>“Appendices 1 and 2 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).”</i>				

Purpose of Report:

This report seeks the approval of the Charity Trustee Sub-Committee acting as Charity Trustee of Norfolk Park (*Registered Charity Number 1040354*) (“the Charity”) to the following proposals:

- to grant a new lease of the Arbourthorne Lodge (“the Property”) to Amy’s House on the terms set out in the Appendices to this report after consideration of the contents of the Qualified Surveyor’s Report and satisfying itself that the proposed terms are the best that can be reasonably obtained in the circumstances.
- to set out the requirements that need to be met prior to this disposal as detailed in the Legal Implications section of this report

Recommendations:

- R1.** On consideration of the commercial terms and the Qualified Surveyor's Report (set out in attached Appendices), agree that the Trustees are satisfied that the proposed terms are the best that can be reasonably obtained in the circumstances.
- R2.** Approve the lease of the subject property to the tenant based on the terms set out in this report, subject to the advertising of notices and consideration by the Sub-Committee of any representation made in response to the public notices being advertised.

Background Papers:**Lead Officer to complete:-**

1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: <i>Kerry Darlow</i>
		Legal: <i>David Sellars</i>
		Equalities & Consultation: <i>Jo Pearce</i>
		Climate: <i>(N/A)</i>
	<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>	
2	SLB member who approved submission:	<i>Executive Director City Futures</i>
3	Committee Chair consulted:	<i>Councillor Ian Auckland</i>
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Ian Wrightson</i>	Job Title: <i>Surveyor</i>
	Date: <i>07 09 23</i>	

1. PROPOSAL

- 1.1 Located in the South West of the City, Norfolk Park is home to a range of facilities for people to enjoy including the Centre in the Park, cafe, children's playgrounds, sporting facilities, woodland and plenty of open space.
- 1.2 The park is held on charitable trust by the Charity and administered by the City Council, with this committee acting as sole corporate Charity Trustee and management provided by Parks & Countryside Services. The charitable trust is registered with the Charity Commission as Norfolk Park (Charity Registration Number 1040354 (and governed by a Charity Commission Scheme dated 24 August 1998 (the Scheme). Norfolk Park is registered at HM Land Registry.
- 1.3 The Property, Arbourthorne Lodge, is a former park lodge building located within the park on the south west boundary with access off Guildford Avenue. The Property is shown edged red on the plan attached at Appendix 3.
- 1.4 The building was previously let to Heritage Park Community School who vacated in August 2018. Following marketing of the property by the Property Services department, agreement in principle was reached with Amy's House for a new lease.
- 1.5 Amy's House is a charity that caters for children aged 5 to 18 and provides family support and respite facilities including sensory room sessions, support in the home and inclusive activities in a safe and secure environment.
- 1.6 To provide continuity of operations pending closure of their former Sheffield base, early occupation was offered by way of a Tenancy at Will. Amy's House have been in occupation since July 2019 and have undertaken repairs and adaptations to the property to render it compliant and suitable for their purposes. The scale of this work was significant and represented a major commitment financially and in time expended.
- 1.7 It is proposed to enter a formal lease on terms on the terms set out in Appendix 1 subject to consideration by the Sub-Committee of any representation made in response to the public notices being advertised.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The charitable objects of the Charity are set out as follows:
 - (1) in the interests of social welfare, to improve the conditions of life for the inhabitants of the area of benefit without distinction of political, religious or other opinions by the provision and maintenance of a recreation ground.
 - (2) the provision and maintenance of a community centre for use by the inhabitants of the area of benefit without distinction of political, religious or other opinions, including use for: (a) meetings, lectures and classes, and (b)

other forms of recreation and leisure-time occupation, with the object of improving the conditions of life for the inhabitants.

2.2 Dependent on where the subject land is situated governs which of objects (1) or (2) apply. In this case the property is situated on land governed under point (1).

2.3 The proposed disposal contributes to the provision and maintenance of the park as follows:

(a) it will remove the liability from the Charity to maintain the Property and as such will reduce the Charity's financial exposure and risk.

(b) it will generate rental income which will be retained by the Charity and used for the purposes of the objects of the Charity.

3. HAS THERE BEEN ANY CONSULTATION?

3.1 As there will be no material change to the provision of facilities within the park there is no requirement for or benefit to holding a public consultation.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

4.1.1 The objects of the Charity are to provide the park and its facilities to all members of the public without restriction to or distinction between any person's characteristics including, but not limited to the protected characteristics identified and therefore there are no equality implications to be considered in the decision requested by this report on the proposed disposal.

4.2 Financial and Commercial Implications

4.2.1 The proposed lease will generate a higher rental income for the Charity. All rental income generated by the lease of the Property will be retained by the Charity and used for the purpose of the Charity in accordance with its charitable objects.

4.2.2 If the lease did not proceed, then the Charity would lose out in rental income and face exposure to maintenance costs on an ongoing basis.

4.2.3 Further financial information is contained in the Qualified Surveyor's Report at Appendix 1 to this report.

4.3 Legal Implications

4.3.1 The Property forms part of the land comprised in the Scheme and the Council as charity trustee must comply with the restrictions on any disposition contained in the relevant provisions of the Charities Act 2011.

These contain a general obligation to achieve the best price that can be reasonably obtained on any disposal but also contains a number of specific obligations as detailed below.

- 4.3.2 Section 120 of the Charities Act 2011 contains an obligation on the trustee to obtain and consider advice from a person having the requisite ability and practical experience to provide them with competent advice on the proposed disposition who is instructed by the charity trustee and acting exclusively for the Charity. A report compliant with the requirements of section 120 has been obtained and is attached to this report at Appendix 2.
- 4.3.3 As the land is held for specific charitable purposes (designated land) and the proposed lease would be for a term in excess of two years, under s121 of the Charities Act 2011 the lease cannot be entered into until public notice has been given of the proposed letting inviting representations to the trustees within one month of notice being given and those representations have been considered.
- 4.3.4 The Scheme does not contain an express power allowing the charity trustee to dispose of the whole or any part of the land held on trust for the objects of the Charity. In previous disposals of land held on charitable trust by the Council it has relied on the power of sale contained in section 6 of the Trusts of Land and Appointment of Trustees Act 1996 which applies where the extent of the disposal is so small that it will have no impact on the charity's ability to further its objects. As this disposal is in relative terms only for a short period of time, will not provide any security of tenure for the tenant and is consistent with previous uses of the premises it is considered that the trustees can rely on the statutory powers referred to above and will not need to seek any consents from the Charity Commission to authorise it.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 It is considered that there are no realistic options here given that property is already occupied by Amy's House who have invested significantly in upgrading the building.

6 REASONS FOR RECOMMENDATIONS

- 6.1 The proposal to grant a lease of this property:
- contributes to charity park income
 - reduces the charity's liabilities by passing on maintenance and repair responsibilities to the tenant
 - complies with the statutory provisions contained within the Act and further with the requirements of the Charity Commission

APPENDICES

- 1 Principal lease terms (Confidential)
- 2 Qualified Surveyor's report (Confidential)
- 3 Plan

This page is intentionally left blank