



SHEFFIELD CITY COUNCIL

Cabinet Report

Report of: Simon Green: Executive Director PLACE

Date: 17th July 2013

Subject: **The Graves Park Charitable Trust:
Cobnar Cottage**

Author of Report: David Cooper (2734350)

Summary:

This report seeks Cabinet approval to declare the Cobnar Cottage on Cobnar Road, Graves Park surplus to requirements and to approve its disposal on the open market subject to restrictions on disposal and the consent of the Charity Commission, as detailed in Legal Implications section. Graves Park is held on charitable trust and therefore approval by Cabinet acting on behalf of the Council in its capacity as trustee of the charity is required. The proceeds of sale will be re-invested by the Council, as Trustee of the Charity, back into the upkeep of Graves Park in accordance with the objects of the charity.

Reasons for Recommendations:

The disposal of this surplus property on the open market will convert a current liability into an asset for the benefit of the Charity and the local community. It will:

- provide an opportunity for an investor to bring the dwelling back into use
- remove a long term maintenance liability in need of refurbishment
- generate a capital receipt for reinvestment back into the Park;
- achieve the best price reasonably obtainable.

Recommendations:

That Cabinet acting as Charity Trustees in accordance with the powers given to the Council as Trustee under the provisions contained in the Trusts of Land and Appointment of Trustees Act 1996:

R1: Declare Cobnar Cottage on Cobnar Road surplus to the Graves Park Charity's requirements.

R2: Approve the freehold disposal of Cobnar Cottage.

- R3: Authorise the Director of Capital & Major Projects to determine the best marketing strategy for the property in order to achieve the best price reasonably obtainable, having regard to the advice contained in the Surveyor's Report at Appendix 2 and to take all necessary steps to market the property in accordance with that strategy.
- R4: Authorise the Director of Capital & Major Projects to negotiate the terms of any sale and instruct the Director of Legal & Governance to prepare and complete all the necessary legal documentation in accordance with the agreed terms and Charity Commission requirements to conclude this disposal.
- R5: Authorise the Director of Legal & Governance to contact the Charity Commission and take such steps and enter into such documents as are required by the Charity Commission in order to give its consent to the disposal.
- R6: Authorise the Director of Capital & Major Projects or the Director of Legal & Governance to give public notice in accordance with Section 121 Charities Act 2011, in the local press, to notify people within the beneficial area of the proposal to dispose of the freehold interest in Cobnar Cottage, Cobnar Road.

Background Papers:

Category of Report: Open / Part Closed – 'Appendix Two is not for publication because it contains exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)

Statutory and Council Policy Checklist

Financial Implications
YES: Paul Schofield
Legal Implications
YES: David Blackburn
Equality of Opportunity Implications
NO
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: Dave Wood
Area(s) affected
Relevant Cabinet Portfolio Leader
Cllr Isobel Bowler
Relevant Scrutiny Committee if decision called in
Economic and Environmental Wellbeing Scrutiny & Policy Development Committee
Is the item a matter which is reserved for approval by the City Council?
NO (Cabinet acting as Charitable Trustees)
Press release
YES

The Graves Park Charitable Trust: Cobnar Cottage

1.0 SUMMARY

- 1.1 This report seeks approval from Cabinet in their capacity as the Graves Park Charity's Trustees to declare Cobnar Cottage on Cobnar Road, Sheffield, S8 8QE surplus to the Charity's requirements. The dwelling is believed to date back to the 1800's and was first acquired by the Charity in 1925 for live in staff duties associated with the upkeep of Graves Park. More recently it has been let as a sundry Council house. The property has now stood vacant for several years and is in need of investment for a full refurbishment and repair to make the property re-habitable.
- 1.2 It is proposed to dispose of the freehold interest in Cobnar Cottage on the open market to obtain best market price for the Charity. This will result in a capital receipt to be reinvested by the Council, as Trustee of the Charity, in Graves Park in accordance with the objects of the charity. This will allow for the continued use of the premises, which are outlined in the attached plan (Appendix One)

2.0 WHAT DOES THIS MEAN FOR SHEFFIELD PEOPLE

- 2.1 The proposed disposal will remove a liability and will allow a property which is currently in need of fresh investment to be refurbished and brought back into use.
- 2.2 The freehold disposal will generate a capital receipt. The proceeds will be re-invested by the Council, as Trustee of the Charity, back into the upkeep of Graves Park in accordance with the objects of the charity.
- 2.3 The JG Graves Charitable Trust and the Friends of Graves Park Group have been advised of this proposal.

3.0 OUTCOME AND SUSTAINABILITY

- 3.1 The freehold disposal of the property will bring a redundant property back in to active use and convert what is now an on-going liability for the Charity into an asset. This disposal will generate a capital receipt which will then be reinvested back into Graves Park by the Council as Trustee of the Charity, in accordance with the objects of the charity.

4.0 LEGAL, PROPERTY & CHARITY IMPLICATIONS

- 4.1 Graves Park is a major city park. The freehold interest was conveyed to the Council by a Conveyance dated 2nd December 1925 made between Bernard Alexander Firth & John George Graves and The Mayor Aldermen of the Borough of Sheffield to be held on charitable trust. The current objects of the charity being 'the provision and maintenance of a park and recreation ground for use by the public with the object of improving their conditions of life.'

- 4.2 Cobnar Cottage forms part of the land comprised in this Conveyance and the Council, as trustee of the charity, must therefore comply with the restrictions on disposition contained in the Charities Act 2011. This contains a general obligation to achieve the best price that can reasonably be obtained on any disposal, but also contains a number of specific obligations, as detailed below.
- 4.3 Section 119 of the 2011 Act contains an obligation to obtain and consider a written report on the proposed disposition from a qualified surveyor instructed by the trustees and acting exclusively for the charity. A report dated 22 May 2013, which complies with these requirements, has been obtained and is contained within Appendix Two to this report. This report advises that a sale on the open market will enable the Council, as trustee of the charity, to comply with the obligation to achieve the best price that can reasonably be obtained.
- 4.4 As Cobnar Cottage (along with the remaining land comprised within the 1925 Conveyance) is held by the charity for a specified purpose (known as designated land), there are additional requirements that must be complied with in relation to the disposal:
- (a) pursuant to Section 121 of the 2011 Act to give public notice of the proposed disposal and to take into consideration any representations made; and
 - (b) unless there is a specific power in the governing document of the charity, which is not the case here, the Council, as trustee, has no power to dispose of the property, without obtaining an order or scheme from the Charity Commission to provide it with the necessary power.

5.0 FINANCIAL IMPLICATIONS

- 5.1 The disposal will attract a capital receipt. All money raised from the disposal of charitable land will be retained by the Council as Trustees of the Charity. This capital must be re-invested into Graves Park in accordance with the charitable objects.
- 5.2 Further details of the financial estimates are contained in the Qualified Surveyors Report Appendix Two (closed).

6.0 ALTERNATIVE OPTIONS CONSIDERED

- 6.1 The empty property is now surplus to the Council's and Charity's requirements and is incurring on-going maintenance and rating liabilities to the Charity. It is no longer possible to let / habit the property without significant investment and a full refurbishment.

7.0 REASONS FOR RECOMMENDATIONS

- 7.1 The disposal of this surplus property on the open market will convert a

current liability into an asset for the benefit of the Charity and the local community. It will:

- provide an opportunity for an investor to bring the dwelling back into use;
- remove a long term maintenance liability in need of refurbishment;
- generate a capital receipt for reinvestment back into the Park;
- achieve the best price reasonably obtainable.

8.0 REASONS FOR EXEMPTIONS

8.1 This report is presented as a partially closed item because extracts within the Surveyors Report in Appendix Two contain exempt information under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

9.0 RECOMMENDATIONS

That Cabinet acting as Charity Trustees in accordance with the powers given to the Council as Trustee under the provisions contained in the Trusts of Land and Appointment of Trustees Act 1996 resolve to:

- R1: Declare Cobnar Cottage on Cobnar Road surplus to the Graves Park Charity's requirements.
- R2: Approve the freehold disposal of Cobnar Cottage.
- R3: Authorise the Director of Capital & Major Projects to determine the best marketing strategy for the property in order to achieve the best price reasonably obtainable, having regard to the advice contained in the Surveyor's Report at Appendix 2 and to take all necessary steps to market the property in accordance with that strategy.
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- R6: Authorise the Director of Capital & Major Projects or the Director of Legal & Governance to give public notice in accordance with Section 121 Charities Act 2011, in the local press, to notify people within the beneficial area of the proposal to dispose of the freehold interest in Cobnar Cottage, Cobnar Road.