

# Report of the Strategic Director of Place to the meeting of Regulatory and Appeals Committee to be held on 30<sup>th</sup> November 2023

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## **Subject:**

Update the Regulatory and Appeals Committee, as Trustees, regarding the request received (30.5.22) from Bradford Organics Communities Service (BOCS) to extend their existing lease to enable them to secure external funding.

## **Summary statement:**

This report requests The Committee, which has the delegated authority to act on behalf of the Council as Trustees in line with the Charity Commission guidance.

Following appraisal, by Officers, of the options available in terms of the request from BOCS, we hereby request the Trustees approve the issuing of a new 20-year lease to BOCS, having followed due process as set out by the Charities Act 2011.

## **EQUALITY & DIVERSITY:**

This report supports the Bradford District Equality Objectives and Equality Plan 2021 - 2025 by :-

- Improving the way we work to help everyone
- Working better with our communities

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**Overview & Scrutiny Area:**

Regulatory & Appeals Committee

## 1. SUMMARY

This report is to request the agreement of Regulatory and Appeals Committee, as Trustees of the Wibsey Park Registered Charity (1042146), to issue a new 20 year lease for Wibsey Park Community Garden (ARN 53828) with Bradford Organics Communities Service (BOCS) to enable them to secure external grant funding.

## 2. BACKGROUND

- 2.1 The Committee on 15<sup>th</sup> August 2019 granted a lease to BOCS which was dated 14<sup>th</sup> April 2020 and was for the period of 7 years therefore the current lease has 4 years remaining.
- 2.2 BOCS are requesting the lease be extended to 20 years to enable them to more easily apply and secure external funding, as the shortness of the lease is proving to be an obstacle, as the remaining term of the lease does not meet the funders criteria.
- 2.3 The request was first brought to the Trustees on 16<sup>th</sup> March 2023 to advise them of request received and how they would like it to be dealt with. The decision was "that the Assistant Director be authorised to appraise the options for amending the lease and request that a detailed progress report be provided to a meeting of the Trustees, one the appraisal has been completed"

## 3. OTHER CONSIDERATIONS

- 3.1 The Committee must consider the request in terms of what is in the best interests of the charity. Charity Commission Guidance advises that this means; "Acting in the charity's best interest's means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."
- 3.2 The purposes of the Trust are; "**Recreation ground for the inhabitants of North Bierley and Neighbourhood**" and to be used for amateur sport for the general public and mankind and to provide buildings facilities and open space.
- 3.3 The location of the Community Garden is such that it does not impact on the level of provision for the local community to partake in recreation activities and ,at any time in the future, it could be brought back into the main park area as public open space.
- 3.4 The securing of grant funding is crucial to ensure the continuity of the Community Garden within Wibsey Park and being managed by BOCS.
- 3.5 The area of land is being properly managed and has no adverse impact on the park as an amenity or on the inhabitants of the local area.

## 4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The cost of the lease shall be recovered from BOCS or by Estates as originators of the first lease or by the recipients of the income. This must not be bourne by the charity as this is not in the best interest of the charity.

4.2 No other financial impact other than staff resources in dealing with this lease.

4.2 Additional maintenance costs will be applicable should the area be brought back into the main park area as public open space.

## **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

5.1 The Committee must consider the request in terms of what is in the best interests of the charity. Charity Commission Guidance advises that this means; "Acting in the charity's best interest's means always doing what the trustees decide will best enable the charity to carry out its purposes, both now and for the future."

## **6. LEGAL APPRAISAL**

6.1 The Councils Legal department have provided support in the appraisal of the options and provided the following statement: " Once the Trustees have been further briefed as per their request at the meeting on the 16 March and the preferred option sanctioned, subject to a designated adviser's report being prepared (solely on behalf of the charity) and thereafter the property advertised as charity land and public open space and any objections considered at that time, then it will be for the Trustees to consider, whether the proposal put forward is in the interests of the charity"

6.2 Under Section 6 of the Trustees of Land and Appointment of Trustees Act 1996, the Trustees have the powers of an absolute owner in relation to any land. This therefore includes the power to sell or otherwise dispose of an interest in the land. Section 8 provides that where, as in this case, land is subject to a Charitable Trust the power of disposal cannot be constrained by a provision in the original disposition.

6.2 As required by the Charities Act 2011 a written report will be obtained from a designated advisor acting exclusively for the trust. Subject to the Committee, acting as Trustee, being satisfied that the valuation represents the best price reasonably obtainable, consent of the Charity Commission will not be required if it chooses to approve the sale on those terms.

6.5 As required by the Charities Act 2011 and the Local Government Act 1972 notice of the proposed sale will have to be advertised in the local press.

6.6 The Committee as Trustee must consider the representations made and take them into account in reaching its decision.

## **7. OTHER IMPLICATIONS**

### **7.1 SUSTAINABILITY IMPLICATIONS**

Not applicable

### **7.2 TACKLING THE CLIMATE EMERGENCY IMPLICATIONS**

Not applicable

### **7.3 COMMUNITY SAFETY IMPLICATIONS**

Not applicable

**7.4 HUMAN RIGHTS ACT**

Not applicable

**7.5 TRADE UNION**

Not applicable

**7.6 WARD IMPLICATIONS**

Not applicable

**7.7 AREA COMMITTEE LOCALITY PLAN IMPLICATIONS**

Not applicable

**7.8 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE**

None

**7.9 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT**

None

**8. NOT FOR PUBLICATION DOCUMENTS**

None

**9. OPTIONS**

9.1 To approve the recommendation to issue a new 20 year lease to BOCS following due process as set out by the Charities Act 2011 and the Councils Legal advisor.

9.2 To refuse the issuing of a new lease.

**10. RECOMMENDATIONS**

*Recommended -*

**It is recommended that the Committee as Trustees approve a new 20 year lease being issued to BOCS subject to the process set out in 6.1.**

**11. APPENDICES**

A Appraisal of Options

B Legal Advice 16.6.23

**12. BACKGROUND DOCUMENTS**

A Previous Committee Decision 16.3.23