

REPORT TO:-

**PLACE SCRUTINY COMMITTEE 9th November 2017
EXECUTIVE 14th November 2017
COUNCIL – 19th December 2017**

Report of: Principal Project Manager, Strategic Infrastructure Planning, City Development

Title: QUEEN'S CRESCENT GARDEN - AGREEMENT FOR LEASE AND COMPULSORY PURCHASE

Is this a Key Decision?

Yes

Is this an Executive or Council Function?

Council

1. What is the report about?

- 1.1 This report seeks members' approval to allocate a relatively modest amount of unallocated New Homes Bonus receipts towards the costs that the St. James Community Trust Ltd will incur in assuming the 125 year lease of Queen's Crescent Garden from the City Council, subsequent to the impending completion of the compulsory purchase of the Garden by the Council.
- 1.2 The Garden has been neglected for decades, but has the potential to become a valued local resource, and the Trust's desire to take on custodianship of the Garden has the potential to offer a future model for other communities to manage their own open spaces. Improving Queen's Crescent Garden is identified as a priority in the St. James Neighbourhood Plan.

2. Recommendations:

- 2.1 It is recommended that:
 - (i) £50,000 of unallocated New Homes Bonus receipts are allocated to the St. James Community Trust Ltd as a grant, to address immediate and ongoing liabilities associated with the Trust taking on the lease of Queen's Crescent Garden.
 - (ii) £5,000 of unallocated New Homes Bonus receipts are allocated for the purchase and installation (by ECC Public Realm) of three new rubbish bins outside the Queen's Crescent Garden walls.

3. Reasons for the recommendation

- 3.1 The St. James Neighbourhood Plan, created in July 2013, identifies the improvement of Queen's Crescent Garden as a key project. The rejuvenation of the Garden is an important priority for the community.

3.2 On 19th April 2016, Council resolved to:

- Grant delegated authority to the Assistant Director City Development in consultation with Corporate Manager Legal, to make a Compulsory Purchase Order in respect of land at Queen's Crescent Garden and, in association with the Portfolio Holder City Development, to take necessary action to proceed with compulsory purchase; and,
- Add a capital budget of £18,000 to the capital programme to fund the compulsory purchase.

3.3 The Compulsory Purchase process is nearing its end, but is six months or so from being completed. It cannot proceed further until negotiations to lease the Garden to the St. James Community Trust Ltd have reached a satisfactory conclusion. The Council needs to be sure that the Trust is willing to take a long lease on the land before it takes on the liability for the land through the compulsory purchase. A 125 year lease to the St. James Community Trust Ltd is envisaged.

3.4 The St. James Community Trust Ltd is concerned about inheriting financial liabilities in taking on the lease of the Garden for 125 years, and the recommendations above are intended to address these concerns such that the Trust can have the confidence to sign the Agreement for Lease, which is the precursor to the completion of the necessary Compulsory Purchase procedures. Detail on the financial liabilities in question is provided in section 8 of this report below.

3.5 The St. James Community Trust Ltd has expressed concerns about its abilities to deal with rough sleeping, but has found reassurance from homeless outreach organisations that tried and tested procedures and mechanisms are in place to offer support.

3.6 In encouraging the St. James Community Trust Ltd, and the residents of St. James generally, to implement proposals they have initiated themselves through the neighbourhood planning process, the recommendations may encourage other communities to follow suit.

4. What are the resource implications including non-financial resources

4.1 As referenced in paragraph 3.2 above, £18,000 is currently ring-fenced in the capital programme to fund the compulsory purchase of the Garden. This figure was arrived at on the basis of independent advice. The bulk of the £18,000 is sourced from a Section 106 agreement relating to planning application 11/0895/03.

5. Section 151 Officer Comments:

5.1 The Section 151 Officer is comfortable with the proposal to allocate an additional £50,000 to the Trust. The proposal will be funded via unallocated New Homes Bonus.

5.2 If approved, the funding for the rubbish bins will be added to the revenue budget to be spent at the appropriate time by ECC Public Realm and will also be funded from unallocated New Homes Bonus.

6. What are the legal aspects?

- 6.1 There will be a requirement for an 'Agreement Regulating the Conditions of Receipt of Grant' to be drawn up, to ensure that the grant is used appropriately.

7. Monitoring Officer Comments:

- 7.1 The Monitoring Officer has raised no issues beyond those set out in paragraph 6.1 above.

8. Report Details / Background

Justification for the Proposed Grant to the St. James Community Trust Ltd

- 8.1 Negotiations with the St. James Community Trust Ltd in relation to the agreement to lease Queen's Crescent Garden to the Trust are close to a resolution, although two particular issues remain outstanding.
- 8.2 Firstly, whilst the Trust are prepared to accept liability for future works which may be required to trees within the Garden, they are not prepared to accept liability for current works which have been identified as being necessary. It is accepted that this is a reasonable position to take. Council officers have visited the Garden with an in-house consultant arborist, who has identified approximately £3,000 of tree works requiring immediate attention.
- 8.3 Secondly, the Trust are concerned about waste management costs over the lifetime of the 125 year lease. These would comprise the costs of supplying and installing new litter / dog waste bins, and emptying those bins on a regular basis. ECC Public Realm officers have confirmed that the costs of supplying and installing new litter / dog waste bins would be circa £400 each (potentially more, depending on the type of bins in question), and that the costs of servicing the bins (assuming there were two) would be circa £850 per annum. Costs to deal with fly-tipping would vary, depending on the nature and scale of the fly-tipping. The nature, scale, and frequency of fly-tipping is difficult to predict, although it is known to take place in the Garden reasonably frequently.
- 8.4 If the lease negotiations are to be successfully concluded, the Council needs to offer the Trust reassurance that it will be able to manage the waste management-related financial obligations that come with assuming the lease. To overcome the potential impasse, it is proposed that:
- No new litter / dog waste bins are located within the Garden, but that the two existing bins outside the Garden walls are replaced, with three new bins, to be located outside the Garden walls by the Council, once the external Garden walls are repaired by the Trust and once the Garden entrances proposed in the community-led masterplan for the Garden's redesign and regeneration are implemented. The Council would thereby retain responsibility for servicing the bins.
 - ECC Public Realm gives consideration to replacing the existing bins with 'Smart' bins, subject to consultation with the Trust on bin design, location and cost prior to implementation.
 - ECC grants the St. James Community Trust a contingency fund with which to deal with fly-tipping over the lifetime of the lease, the nature, scale, and frequency of

which it is difficult to estimate, and with which to implement the necessary initial tree works.

St. James Community Trust Ltd 'Grass Roots Grant' Award

8.5 The St. James Community Trust Ltd recently successfully applied for funding from the 'Grass Roots Grants'. This funding is intended to be used for works to begin the rejuvenation of the Garden, principally works to repair Garden walls. The funding for these grants is sourced from the 15% of CIL which the Council has identified is to be spent in neighbourhoods. ECC Executive and Council resolved to support ECF's recommendation to support the Trust's funding bid at meetings on 10th October and 17th October respectively.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 Introductory comments in the Corporate Plan refer to the need to reduce the demand for services and to do things differently to save money in times of austerity. One of the priorities in the 'Health and Place' chapter of the Corporate Plan is to 'implement new ways of keeping the City looking good'. The Queen's Crescent Garden-related element of the decision is considered to contribute to the Corporate Plan by facilitating a new approach to community ownership and management of public open space, which has the potential to provide a model for other communities to follow, thereby saving the Council money and reducing the demand for services. It also provides for the implementation of a new approach to keeping the City looking good.

9.2 City Development priorities in the Corporate Plan include 'supporting the Exeter Community Forum in the development of a Community Strategy to inform the future spend of New Homes Bonus and the neighbourhood element of CIL'. The decision is considered to be consistent with this objective insofar as it will help to consolidate the existing momentum behind the Exeter St. James Community Trust Ltd's plans to rejuvenate Queen's Crescent Garden.

10. What risks are there and how can they be reduced?

10.1 There is a risk that the St. James Community Trust Ltd's apprehension about taking on the lease of the Garden will prevail and that the lease agreement between the Trust and the Council will therefore not be signed. The recommendations in the report are intended to overcome this risk.

10.2 There is a risk that the Trust itself will not endure for the lifetime of the lease. The Trust's rules¹ stipulate that its assets must be transferred to a prescribed community benefit society or suchlike in the event that it is dissolved or wound up. Freehold ownership of the Garden will remain with the Council given the proposed 125 year lease of the land to the Trust.

¹ Exeter St. James Community Trust Ltd Rules – see:

<http://www.exeterstjamesforum.org/userfiles/PDFs/Exeter%20St%20James%20Community%20Trust%20Ltd%20WCA%20Community%20Assets%20Rules%202013.pdf>

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

11.1 The decision will impact positively on the environment of Queen's Crescent Garden specifically and St. James ward more generally. The decision also has the potential to impact positively on the environment, community safety, and health and wellbeing in other communities which may opt to follow the example set by the St. James community in taking on responsibility for its own environment.

12. Are there any other options?

12.1 There is an option not to proceed with allocating monies to be spent in Queen's Crescent Gardens as recommended. It is considered that this course of action would undermine the Council's ambitions to encourage community approaches to service delivery and community engagement and, more specifically, that this course of action would undermine the willingness of the St. James Community Trust to sign the Agreement for Lease, meaning that the compulsory purchase would not be followed through.

Principal Project Manager, Strategic Infrastructure Planning, City Development

Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

- Report to ECC Executive (dated 12th April 2016) and Council (dated 19th April 2016) on Queen's Crescent Garden Compulsory Purchase Order.
- Exeter St. James Neighbourhood Plan – July 2013 – see: <https://exeter.gov.uk/media/1777/st-james-neighbourhood-plan-2013.pdf>
- Exeter St. James Forum Queen's Crescent Gardens Stage D Report (Final) 01/09/14

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