

## **The Vale of Glamorgan Council**

### **Cabinet Meeting: 7 January, 2019**

### **Report of the Cabinet Member for Social Care, Health and Leisure**

#### **Physic Garden, Cowbridge**

##### **Purpose of the Report**

1. To seek approval for a new 25 year lease for the Physic Garden in Cowbridge and permission to dedicate and protect the garden under the Fields in Trust 'Green Space for Good' programme.

##### **Recommendations**

1. That authority be granted to the Director of Environment and Housing in consultation with the Head of Finance to agree terms for a new 25 year lease with The Cowbridge Physic Garden Trust for the Cowbridge Physic Garden upon surrender of the existing lease.
2. That authority be granted to the Monitoring Officer/Head of Legal and Democratic Services in consultation with the Head of Finance and Director of Environment and Housing, to advertise the disposal by way of lease to the Cowbridge Physic Trust as required by Section 123(2A) of the Local Government Act 1972, and, subject to no objection being received, to proceed with the disposal, subject to the use of appropriate delegated powers.
3. That delegated authority is granted to the Monitoring Officer/ Head of Legal and Democratic Services in consultation with the Director of Environment and Housing and Cabinet Member for Social Care and Leisure, to enter into a Deed of Dedication to provide Fields in Trust Protected Green Space status to the Physic Garden with the agreement of the Cowbridge Physic Trust
4. That the Monitoring Officer/Head of Legal and Democratic Services be authorised to prepare, complete and execute the required legal documentation.
5. That the Monitoring Officer/Head of Legal and Democratic Services be authorised to sign a Deed of Dedication Fields in Trust and register the same.
6. That the Vale of Glamorgan Council's contribution to the physic garden be recognised at any dedication event.

## **Reasons for the Recommendations**

1. To allow The Cowbridge Physic Garden Trust to undertake long term planning.
2. To satisfy the legal requirements of section 123 of the Local Government Act 1972.
3. To progress the formal dedication under the Fields in Trust programme
4. In order to execute and complete the legal documentation.
5. In order to execute and complete the legal documentation relevant to a Fields in Trust dedication.
6. To allow recognition of the Council's role in the securing the future of the Garden.

## **Background**

2. Council Minute C342 (June 18th 2018) PHYSIC GARDEN, COWBRIDGE (SCHL) (SCRUTINY COMMITTEE – HEALTHY LIVING AND SOCIAL CARE) states:

The Cabinet Member for Social Care Health and Leisure recommended that this item be deferred to a future meeting in order that further clarity around the lease could be obtained from the Operational Manager for Neighbourhood Services, Healthy Living and Performance.

RESOLVED – T H A T the report be deferred to a future meeting.

Reason for Decision

To obtain further clarity from the Operational Manager for Neighbourhood Services, Healthy Living and Performance.

3. Further discussions have now been held with the Cowbridge Physic Garden Trust and relevant Cabinet members regarding this matter.

## **Relevant Issues and Options**

4. The Cowbridge Physic Garden Trust remain concerned that without a long lease they will not be able to provide guarantees to anyone wishing to make a legacy regarding the long term future of the Physic Garden. However it is acknowledged that a Deed of Dedication with 'Fields in Trust' would provide this security as the garden would be protected as a 'Green Space for Good'.
5. In addition a new 25 year lease would allow the Cowbridge Physic Garden Trust to seek further grants. Should the issue arise that the length of the lease became too short to secure any particular grant opportunity a further application to extend the lease could be considered by Cabinet.

## **Resource Implications (Financial and Employment)**

6. There are no direct resource implications associated with this report.

## **Sustainability and Climate Change Implications**

7. The new lease and potential dedication of the physic Garden will protect a much valued piece of green space in the centre of Cowbridge.

## **Legal Implications (to Include Human Rights Implications)**

8. The Council has powers under Section 123 of the Local Government Act 1972 to dispose of land (whether by freehold sale or lease) but cannot ordinarily dispose of

any land for less than the best consideration that can be obtained except with the specific consent of the Welsh Ministers or unless the Council can rely on the General Disposal Consent (Wales) 2003

9. The general consents can be relied on if the Council considers that the purpose for which the land is to be disposed of is likely to contribute to the promotion of economic well-being; and /or social well-being and/or environmental well-being of the whole or any part of its area, or all or any persons resident or present in its area and the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2m.
10. The Council is satisfied that given the leasehold disposal would restrict the use of the Physic Garden to that of open green space that is accessible to the public, a nominal rental only would be applicable and therefore, a lease to the Cowbridge Physic Garden Trust for this consideration will not represent an undervalue of greater than £2 million.
11. In accordance with Section 123 (2A) of the Local Government Act 1972 the Council is legally obliged to publish notice of its intention to dispose of open space for two consecutive weeks in a newspaper circulating in the area in which the open space is situated. Open space means any land laid out as a public garden, or used for the purposes of public recreation.
12. In order to dedicate the garden under the Fields in Trust 'Green Space for Good' programme, the Council and the trustees of Cowbridge Physic Garden Trust will be required to enter into a Deed of Dedication with the National Playing Fields Association, who operate as Fields in Trust. This will mean that the garden will be protected as a green space in perpetuity.

### **Crime and Disorder Implications**

13. The Deed of Dedication may serve to reduce crime in the area by improving the status of these open spaces and increasing their uses by all sectors of the community.

### **Equal Opportunities Implications (to include Welsh Language issues)**

14. The trustees of the Physic Garden Trust are aware of the Council's commitment to equal opportunities and share the same values in the provision of the Physic Garden.

### **Corporate/Service Objectives**

15. Working. Well-being Outcome 4: An Active and Healthy Vale:  
Objective 7: Encouraging and promoting active and healthy lifestyles.  
Work in partnership to deliver a range of activities through our leisure and community facilities and parks to increase levels of participation and physical activity.

### **Policy Framework and Budget**

16. This report is a matter for Executive decision by Cabinet.

### **Consultation (including Ward Member Consultation)**

17. Local Ward Member have been consulted. Due to a personal and / or prejudicial interest Councillors Cox and Parker were unable to comment. No other comments have been received.

## **Relevant Scrutiny Committee**

18. Healthy Living and Social Care

### **Background Papers**

E-mail from Physic Garden Trust

### **Contact Officer**

David Knevett - Operational Manager, Healthy Living and Performance  
Tel: 01446 704 817

### **Officers Consulted**

Operational Manager: Property  
Legal Services - Committee Reports  
Visible Services - Accountant  
Operational Manager: Regeneration

### **Responsible Officer:**

Miles Punter - Director of Environment and Housing