

**Economic and Environmental Wellbeing Scrutiny and Policy Development  
Committee**

**Special Meeting held 4 October 2013**

**PRESENT:** Councillors Cate McDonald (Chair), Ian Auckland (Deputy Chair), Trevor Bagshaw, Terry Fox, Steve Jones, George Lindars-Hammond, Tim Rippon, Steve Wilson, Pat Midgley (Substitute Member) and Diana Stimely (Substitute Member)

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**1. APOLOGIES FOR ABSENCE**

1.1 Apologies for absence were received and substitutes attended the meeting as follows:-

Apology

Substitute

Councillor Jayne Dunn  
Councillor Keith Hill  
Councillor Ibrar Hussain

Councillor Pat Midgley  
Councillor Diana Stimely  
No substitute nominated

**2. EXCLUSION OF PUBLIC AND PRESS**

2.1 No items were identified where resolutions may be moved to exclude the public and press.

**3. DECLARATIONS OF INTEREST**

3.1 There were no declarations of interest.

**4. PUBLIC QUESTIONS AND PETITIONS**

4.1 The following questions were raised by members of the public and the Chair requested that responses be provided during the consideration of item 5:-

- (a) Is the Council aware that the sale of any property within the Graves Park Charity, including Cobnar Cottage, is specifically excluded by the covenants in the case of J. G. Graves' gift?
- (b) Why have the Council not consulted with the Friends of Graves Park regarding the sale of Cobnar Cottage, or invited the Friends Group to go and view the Cottage, if it is seriously interested in the Group's opinion, and in working collaboratively with the Friends Group?
- (c) Why has Cobnar Cottage been allowed to deteriorate and not been maintained for at least six years since being vacated by the last tenant when it should have been maintained as an asset and re-let, thus accruing income for the Graves Park Charity?

## **5. THE GRAVES PARK CHARITABLE TRUST - COBNAR ROAD COTTAGE**

- 5.1 The Committee considered a report of the Executive Director, Place, which had been submitted to the meeting of the Cabinet held on 17<sup>th</sup> July, 2013, containing proposals regarding the declaration of Cobnar Cottage, Graves Park, surplus to the Graves Park Charity's requirements and the freehold disposal of the Cottage on the open market. The full decision of the Cabinet, sitting in their capacity as Trustees of the Graves Park Charitable Trust, which included approving the declaration and subsequent disposal of the Cottage, was appended to the report.
- 5.2 Prior to consideration of the report, the Chair stated that although the decision had been called-in for scrutiny, under the call-in process for Executive decisions, as the decision had been made by the Cabinet, sitting as Trustees of the Graves Park Charitable Trust, it did not fall within the call-in process for Executive decisions. However, in the spirit of transparency, the Committee had been invited to examine the report and the decisions made by the Cabinet on this matter, and any comments or recommendations made by the Committee would be reported to the Cabinet. The Chair also reminded Members of the Committee that Appendix 2 to the report contained confidential information and that discussion on the contents of the appendix would need to be taken in closed session, with the public and press being excluded.
- 5.3 Councillor Isobel Bowler, Cabinet Member for Culture, Sport and Leisure, stated that the Council took its responsibilities with regard to the City's parks very seriously and that the Cabinet, in its role as Trustees of the Graves Park Charitable Trust, had sought advice, including legal advice, from Council officers, and the decision of the Cabinet had been taken in the best interests of the objectives of the Charitable Trust. Councillor Bowler stated that the Council valued Friends Groups, and stressed that although there was no obligation on the Council to directly consult with such Groups on disposals or other matters, she offered her sincere apologies, on behalf of the Council, for not consulting with the Friends of Graves Park prior to the Cabinet decision to commence the Public Notice and wider consultation being taken. She added that the Council would normally consult a Friends Group on large disposals affecting a park, but as the proposed disposal only involved a relatively small capital sum, and as the Charity Commission process required a consultation, the Council did not consider it necessary, in this case, to consult in advance of the Trustee's decision to begin the process for disposal.
- 5.4 David Cooper, Head of Policy and Projects, Culture and Environment, Place, referred to the report, highlighting the history of the Cottage and the reasoning behind the recent decision to dispose of the Cottage on the open market. He reported on the legal, property and charity implications of the decision, referring specifically to the requirement of the Council, following the decision, to publicly advertise the proposal and commence the due process of Public Notice and consultation.
- 5.5 Members of the Committee raised questions and the following responses were provided:-

- The decision to sell the freehold was based on the advice contained in the Surveyor's report. The financial valuation/estimate contained within the report was only indicative, and the housing market would determine the true value whenever the property was sold. It was accepted that selling the freehold was not the only option and that reverting to a leasehold disposal may be an alternative. However, ultimately, it was a matter for the Director of Capital and Major Projects to determine the best marketing strategy for the property to benefit the Charity, as set out in paragraph (c) of the resolution of the Cabinet at its meeting held on 17<sup>th</sup> July, 2013.
- Park Lodges, such as Cobnar Cottage, have traditionally been offered at subsidised rent to workers in return for duties carried out in the parks. The exact cost benefit analysis of this arrangement and therefore, any savings/true costs, are however, difficult to fully quantify. Since this property was first acquired in 1925, modes of working have changed significantly over time. Cobnar Cottage was no longer needed to house the Park's estate workers. Consequently, the dwellinghouse no longer directly benefits the Charity on which it is being held and is now becoming a drain on the Charity's limited resources.
- On the query that capital spend arising from a disposal could incur future revenue costs, the capital spend would be subject to a future decision of the Trustees, and options for capital investment that would give a revenue return would also be considered.
- The Council, acting as Trustees, needed to look at what was the best practical solution in terms of the future of the building. The property had been vacant for a number of years and was now in need of investment for a full refurbishment and repair in order to make it habitable. The proposed disposal would remove a liability and allow a property, which was currently in need of fresh investment, to be refurbished and brought back into use, and therefore, this had been viewed as the most practical and feasible solution.
- The proceeds from the sale of the Cottage would be reinvested by the Council, as Trustees of the Charity, in Graves Park, in accordance with the objects of the Charity. There were no firm plans in terms of how the proceeds would be reinvested at the present time. The Friends of Graves Park and other users of the Park would be consulted on how they would like to see the proceeds reinvested.
- The property had originally been acquired and maintained by the Charity Trust as a Worker's Cottage. On the basis that there was no available capital funding in terms of its refurbishment, or little likelihood of it being let to a Graves Park site worker in the foreseeable future, then selling the property was viewed as the most feasible option. There was always the possibility that other options in terms of the future of the Cottage could be raised as part of the consultation process, which would need to be considered. The 28 day Public Notice required to commence and formally invite wider public feedback has currently been suspended due to the

Trustees decision being considered by this Scrutiny Committee.

- Prior to making the decision, the Cabinet had received clear legal advice on their roles as Council Members and Trustees of the Charity, and all Members were aware of the role in which they were acting.
- It was accepted that there had been challenges in terms of the maintenance of the Cottage in recent years, but there had not been a case of wilful neglect. Enquiries would be made to see if an insurance claim for compensation could be made in terms of any damage caused to the property.
- As the Cottage was no longer required to provide living accommodation for workers who maintain Graves Park, it has not been considered appropriate to borrow money to upgrade the property for this purpose.
- The Cabinet Member had been advised of the ability to apply to the Charity Commission for an order in terms of the amendment of the covenants but, based on all the advice received, the Cabinet, acting as Trustees, had viewed the decision to dispose of the property as the best option in the interests of the Charity at this time. It was also acknowledged that all the advice provided was in accordance with the guidelines for potential disposal of charitably held assets, as contained within the Charities Act 2011.
- It was accepted that, in hindsight, it would have been helpful to consult with the Friends of Graves Park prior to the Cabinet decision on 17<sup>th</sup> July, 2013, but the Council would now seek the views of the Group, as well as other users of the Park, on what they would like to see in terms of reinvestment back into the Park.

5.6 RESOVLED: That the Committee:-

- (a) notes (i) the contents of the report now submitted, together with the comments now made and responses provided to the questions raised and (ii) that it does not have the authority to refer back the decision of the Cabinet at its meeting held on 17<sup>th</sup> July, 2013; and
- (b) acknowledges some weaknesses now reported in terms of the lack of prior, earlier consultation with the Friends of Graves Park and, in the light of this, (i) offers its apologies to the Friends Group and (ii) requests that officers enter into dialogue with the Friends Group, as well as other users of the Park, to (A) have an on-going dialogue, (B) consider how the proceeds of the sale could be reinvested back into Graves Park and (C) look at any other viable options proposed in terms of the future use of the Cottage.

(NOTE: Prior to the passing of the above resolution, an alternative resolution was moved by Councillor Ian Auckland and seconded by Councillor Trevor Bagshaw, as follows:-

“That this Committee requests the Cabinet, as Trustees, to withdraw the decision

made at its meeting held on 17<sup>th</sup> July, 2013, in relation to Cobnar Cottage, and reconsiders the matter following consultation with interested parties, particularly the Friends of Graves Park and, after consideration of the matters raised at this meeting”.

The votes on the alternative resolution were ordered to be recorded and were as follows:-

For the resolution (3) - Councillors Ian Auckland, Trevor Bagshaw and Diana Stimely

Against the resolution (6) - Councillors Terry Fox, Steve Jones, George Lindars-Hammond, Pat Midgley, Tim Rippon and Steve Wilson).

Abstained (1) - Councillor Cate McDonald

## **6. DATE OF NEXT MEETING**

6.1 It was noted that the next meeting of the Committee would be held on Wednesday, 9<sup>th</sup> October, 2013, at 4.30 p.m., in the Town Hall.

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