



Author/Lead Officer of Report:
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Report of: Laraine Manley: Executive Director of Place
Report to: Leader
Date of Decision: 25 September 2019
Subject: Surrender and Renewal of Lease of Heeley City Farm, Richards Rd, Sheffield S2 3DT

Is this a Key Decision? If Yes, reason Key Decision:-	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
- Expenditure and/or savings over £500,000		<input type="checkbox"/>		
- Affects 2 or more Wards		<input type="checkbox"/>		
Which Cabinet Member Portfolio does this relate to? Finance & Resources and Culture, Parks and Leisure				
Which Scrutiny and Policy Development Committee does this relate to? Economic & Environmental Well-being				
Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If YES, what EIA reference number has it been given?				
Does the report contain confidential or exempt information?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
<i>"The full report is not for publication because it contains exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)."</i>				

Purpose of Report:

To seek approval to the surrender and renewal of a lease of Heeley City Farm, Richards Road, Sheffield S2 3DT to the existing tenant, Heeley City Farm Limited.

Recommendations:

That the Leader approves:

1. Surrender of the existing lease and the grant of a new lease for 30 years of Heeley City Farm, Richards Road, Sheffield S2 3DT to the existing tenant Heeley City Farm Limited subject to payment of the Council's surveyor's costs and legal fees.
2. That authority is granted to the Chief Property Officer in conjunction with the Head of Legal Services to agree the terms of the lease.

Background Papers:

None

Lead Officer to complete:-		
1	I have consulted the relevant departments in respect of any relevant implications indicated on the Statutory and Council Policy Checklist, and comments have been incorporated / additional forms completed / EIA completed, where required.	Finance: Paul Schofield
		Legal: David Sellars
		Equalities: None
<i>Legal, financial/commercial and equalities implications must be included within the report and the name of the officer consulted must be included above.</i>		
2	EMT member who approved submission:	Laraine Manley
3	Cabinet Member consulted:	Cllr Olivia Blake & Cllr Mary Lea
4	I confirm that all necessary approval has been obtained in respect of the implications indicated on the Statutory and Council Policy Checklist and that the report has been approved for submission to the Decision Maker by the EMT member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: Ian Wrightson	Interim Surveyor, Commercial Estate Team
	Date: 19th August 2019	

1. Proposal

1.1 Heeley City Farm was originally established in 1981 by the Heeley Tenants and Residents Association following the clearance of land previously occupied by terraced houses. Heeley City Farm Limited, (HCFL), Company Number 02141420, evolved from this small community based project to a (still community-based and led) not-for-profit charity (Charity Commission registration number 1111482) known throughout Sheffield and the region. HCFL has the following Charitable Objects:

- 1) To promote the benefit of the inhabitants of Heeley and the neighbourhood thereof (hereinafter called "the area of benefit") without distinction of sex or race, or political, religious or other opinions by associating the local authorities and or voluntary organisations and inhabitants in a common effort to advance education and to provide facilities in the interests of social welfare for recreation and other leisure time occupation with the object of improving the condition of life for the said inhabitants, and particularly of those who have need of such facilities by reason of their youth, age, infirmity or disablement, poverty or social and economic circumstances;
- 2) To advance the education of the said inhabitants, and particularly young members of the public at large, in agriculture, horticulture, home-crafts, country-life and related subjects and in the principles of self-discipline and good citizenship through their leisure-time activities so that they develop their physical, mental and spiritual capacities and grow to full maturity as individuals and members of society and their conditions of life are improved;
- 3) To promote among the inhabitants of the area of benefit humanity and morality by educating them in care and consideration of all animals, particularly animals in need of care and protection and for these purposes to care for and exhibit animals in common agricultural and domestic use so that the public, and particularly the younger members thereof, will learn a greater awareness of and appreciation for such animals;
- 4) To provide education and training for persons who have need of such facilities by reason of their youth, age infirmity or disablement, poverty or social and economic circumstances, resident in the said area of benefit, so as to prepare them for any trade, occupation or service and hereby advance them in life or enable them to earn their own livelihood.

1.2 The existing lease dated 14th September 2000 was granted for a period of 25 years from the 1st April 2000 and therefore expires in 6 years' time.

The current rent is £750 p.a. set in 2000. Rent reviews (to a market rent) are scheduled every 5 years in the existing lease but the rent has not been increased since 2000 as market rent is not considered to be higher than the existing rent.

The user clause under the lease is restricted to a city farm in accordance with the charitable objects and memorandum of association of HCFL. The charity is responsible for all outgoings and repair and maintenance.

- 1.3 HCFL advises that the charity has been badly affected by austerity year-on-year since 2010, and the farm has reported operational losses over the last 5 years. Further, that it has a budget shortfall of £129,000 for 2019 which it is aiming to fill with income from grants, contracts, donations and earned income from sales of produce. It is also reducing expenditure and cutting staff costs. In order to turn their current situation around investment is required to re-furbish the café, improve toilet facilities and increase the growing space for the garden centre.

HCFL further advises that as the current lease expires in 2025, under accounting rules the depreciation of the value of buildings/assets is being spread over the remaining (reducing) number of years. This is adversely affecting the organisational balance sheet and also may deter funders from making additional funding awards. Additionally the short remaining period of the existing lease. HCFL have provided information supporting their argument for a longer lease that states that Grant making bodies such as The National Lottery Community Fund and South Yorkshire Key Fund require a minimum of up to 10 years on a lease for any new revenue funding, and up to 30 years for new capital build projects.

- 1.4 HCFL is seeking a new 30 year lease in order to safeguard their future and attract additional investment and grant funding. The existing lease is not excluded from the provisions of Part II of the Landlord & Tenant Act 1954 and the tenant has the statutory right to renewal on similar terms.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The mission statement for HCFL states that the charity identifies, confronts and addresses the problems of poverty, inequality, prejudice and lack of opportunity by supporting and promoting community regeneration and self-help within environmentally friendly and self-sustaining systems, using the background of a mini-farm, community gardens and related resources

- 2.2 The operation involves offering opportunities to up to 200 regular volunteers, training and educational organisations and provides environmental, health, food and farming education to around 5,000 school children and several thousand adult visitors each year. Other achievements include:

- Creating the first peat-free garden centre in the north of England,
- Establishing several Social/Community enterprises,

- Constructing the first green roof and community wind turbine in Sheffield
- Becoming Sheffield leaders in local food growing, fuel poverty and affordable warmth advice, animal related dementia care and community heritage.
- Establishing the Heeley Development Trust
- Created the Heeley People's Park
- Establishing and sustaining local food growing community gardens across the city.

2.3 Granting a new 30 year lease would assist HCFL bid to address the current financial position and to make bids for additional grant funding that would make its future position more sustainable.

3. HAS THERE BEEN ANY CONSULTATION?

3.1 There is a statutory right to renewal of the lease at the end of the existing term and consultation is not, therefore, considered to be necessary.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality of Opportunity Implications

The Trust charitable objects cover all members of the public without distinction of age, health status, religious or political affiliation, race, sex, or sexual orientation and, as such, there are no equality implications.

4.2 Financial Implications

HCFL have requested a lease of 30 years continuing on the current rent of £750 pa.

Section 123 of the Local Government Act 1972 states that Councils, "except with the consent of the Secretary of state, shall not dispose of land under this section otherwise than by way of a short tenancy, for a consideration less than the best that can be reasonably obtained".

The land consists of the cleared sites of former housing and is designated as Open Space in the Local Plan and is unlikely to be approved for redevelopment.

It is unlikely that another tenant could be found for the land should HCFL not be in occupation. There is a statutory right to the renewal of the existing lease under the provisions of the Landlord & Tenant Act 1954.

The rent has not been reviewed since 2000 on the basis that any market rent for the land is not considered to be any higher than the existing rent.

The current asset valuation of the land carried out as part of the Council's financial reporting process assesses the capital value of the land at £26,400 and assesses the capitalised value of the asset subject to the current lease as £6,250. The current lease (with statutory rights to renewal) and the proposed new lease therefore represent a capitalised undervalue of £20,150 within the meaning of Section 123 of the Local Government Act 1972.

The level of undervalue is comparatively small whilst there are significant non-financial benefits which underpin a number of Council policy objectives.

4.3 Legal Implications

The lessee has a statutory right to renewal of the current lease at the expiry of the current term (i.e. in 6 years' time) under the provisions of Part II of the Landlord & tenant Act 1954.

Section 123 of the Local Government Act 1972 states that Councils, "except with the consent of the Secretary of State, shall not dispose of land under this section otherwise than by way of a short tenancy, for a consideration less than the best that can be reasonably obtained".

This duty was amended by the General Disposal Consent Order (England) 2003 under which Secretary of State consent is not required where the Council considers the transaction supports the promotion or improvement of the economic, social or environmental well-being of citizens within the local area (unless the capitalised undervalue exceeds £2m).

The level of undervalue in this case is less than £2m and the surrender and renewal of the lease assists HCFL in achieving their charitable objectives which, in turn, support the social and environmental well-being of local residents.

4.4 Other Implications

- 4.4.1 The proposed surrender and grant of the new lease supports continued provision of the City Farm facilities for the benefit of the community.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 Not to grant a new lease

This would preclude the ability to borrow for funding purposes and mean that grant funding bids could not be made, risking the future of the farm. HCFL have a statutory right to a new lease upon the expiry of the existing lease. This is not considered a realistic option.

5.2 Grant a new lease for a shorter period

HCFL require a lease of a length that will support the ability to secure

borrowing for funding, improve the position on depreciation in their balance sheet and enable them to bid for grant funding. A minimum term of 25 years is required for most borrowing and grant funding purposes. The grant of a new lease for 25 years, however, would mean that HCFL would need to seek a further surrender and renewal of the lease when applications for borrowing and grant funding bids are made. On this basis a 25 year term is not considered to be suitable.

6. REASONS FOR RECOMMENDATIONS

6.1 The proposals:

- Support HCFL in developing a sustainable and robust business plan aimed at securing the future of Heeley City Farm
- Assists HCFL with securing financial borrowing and enables grant funding bids to be made by HCFL to sustain and secure capital investment to improve the farm