



Report to Policy Committee

Author/Lead Officer of Report: Tammy Whittaker Head of Regeneration and Property Service
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Report of: Executive Director Operational Services
Report to: Charity Trustee Sub-Committee
Date of Decision: 18 October 2023
Subject: Abbeydale Industrial Hamlet, Abbeydale Road South, Sheffield, S7 2QW

Has an Equality Impact Assessment (EIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
If YES, what EIA reference number has it been given? NOT YET COMMISSIONED				
Has appropriate consultation taken place?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
Has a Climate Impact Assessment (CIA) been undertaken?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
Does the report contain confidential or exempt information?	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>
If YES, give details as to whether the exemption applies to the full report / part of the report and/or appendices and complete below:-				
Appendices 1 and 2 are not for publication because they contain exempt information under Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).				

Purpose of Report:

This report

1. seeks the approval of the Charity Trustee Sub Committee acting as Charity Trustee of Abbeydale Industrial Hamlet, and the wider site of which it forms part, ("the Charity") to the surrender of the remaining term of the current lease and the grant of a new lease to the current tenant of the Property (as defined at paragraph 1.2 of this report and referred to in the plan attached hereto) on the terms set out in the Appendices to this report after consideration of the contents of the Qualified Surveyor's Report and satisfying itself that the proposed terms are the best that can be reasonably obtained by the Charity in the circumstances.
2. sets out the requirements that need to be met prior to this disposal (as detailed in the Legal Implications section of this report)

Recommendations:

The Charity Trustee Sub-Committee is recommended to:

- R1. On consideration of the commercial terms and the Qualified Surveyor's Report (set out in attached Appendices), confirm that it is satisfied that the proposed terms are the best that can be reasonably obtained by the Charity in the circumstances.
- R2. Approve the publishing of the relevant Charity Act notices and note that a further paper will be brought back to the Charity Trustee Sub-Committee in the event of any objections to the disposal being received.
- R3 Subject to the outcome of recommendation 2, approve the surrender of the remaining term of the current lease and the grant of a new lease to the current Tenant on the terms set out in this report.

Background Papers:

n/a

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: Adrian Hart
		Legal: <i>Leonie Wallace</i>
		Equalities & Consultation: <i>Jo Pearce</i>
		Climate: <i>(N/A)</i>
	<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	SLB member who approved submission:	<i>Executive Director City Futures</i>
3	Committee Chair consulted:	<i>Councillor Ian Auckland</i>
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 Committee by the SLB member indicated at 2. In addition, any additional forms have been completed and signed off as required at 1.	
	Lead Officer Name: <i>Ian Wrightson/Philip Dendy</i>	Job Title: <i>Surveyors</i>
	Date: <i>October 2023</i>	

1. PROPOSAL

- 1.1 Abbeydale Industrial Hamlet is held on charitable trust by the Council as sole charity trustee, with this Committee having responsibility for those functions.
- 1.2 Abbeydale Industrial Hamlet, marked with a red line on the lease plan attached at Appendix 3 ('the Property'), forms part of a larger site registered at HM Land Registry under freehold title number SYK618090.
- 1.3 The Property is currently occupied by Sheffield Museums Trust under a lease dated 19 December 2012 which was varied by a licence to assign and deed of variation dated 1 April 2021. The leasehold title is registered as SYK604261.
- 1.4 The Sheffield Museum Trust in the process of instigating plans to improve the 'offer' to visitors and to make better use of the existing site and buildings. The proposed alterations include the installation of a Fire Protection System, 3-phase electrical power, additional outdoor seating, improved landscaping, and re-surfacing the car park to provide both additional spaces and improved accessibility.
- 1.5 The Museum has investigated external funding options to facilitate the above works, specifically via Heritage Lottery Funding however, the unexpired term of the existing lease is now insufficient for the proposed funding - having only 19 years remaining.
- 1.6 In order to allow the funding to be paid over to be facilitate the envisaged improvements, terms have provisionally been agreed to grant Sheffield Museums Trust a new 36-year lease subject to the surrender of the existing lease. The reason for the 36-year term is to provide sufficient time to both deliver the proposed capital improvements and to pursue a series of further funding bids for more work.
- 1.7 The proposed lease will be on the terms indicated above, and as set out in the attached Appendix 1.
- 1.8 As with the existing lease, the proposed lease will require the Lessee to repair and maintain the historic monuments within the demise which would otherwise be the responsibility of the Council.

2. HOW DOES THIS DECISION CONTRIBUTE?

- 2.1 The charitable objects of the Charity are to use the land for the purposes of the recreation of the public as public walks and pleasure grounds. The proposed arrangement will ensure that the property is maintained by the Lessee into the medium term and hence reduce the Charity's financial exposure and risk.

3. HAS THERE BEEN ANY CONSULTATION?

- 3.1 As there will be no material change to the provision of facilities at the Property there is no requirement for or benefit to holding a public consultation.

4. RISK ANALYSIS AND IMPLICATIONS OF THE DECISION

4.1 Equality Implications

- 4.1.1 The objects of the Charity are to provide the facilities to all members of the public without restriction to or distinction between any person's characteristics including, but not limited to the protected characteristics identified and therefore there are no equality implications to be considered in the decision requested by this report on the proposed disposal.

4.2 Financial and Commercial Implications

- 4.2.1 The proposed lease will facilitate the pursuance of significant funding to undertake improvement works to enhance the museum attraction and the capital costs will not fall to the Charity. In addition, if the lease did not proceed, then the Charity could in due course face exposure to maintenance costs on an ongoing basis.
- 4.2.2 Further financial information is contained in the Qualified Surveyor's Report at Appendix 2 to this report.

4.3 Legal Implications

- 4.3.1 Abbeydale Industrial Hamlet, and the wider site of which it forms part, was acquired by the Council under a Conveyance dated 17 August 1935 made between (1) Earl Fitzwilliams Wentworth Estates Company and The Trustees of the J G Graves Charitable Trust and (2) The Lord Mayor Aldermen and Citizens of the City of Sheffield. The purchase money being provided by The Trustees of the J G Graves Charitable Trust on the proviso that the property conveyed would be held in perpetuity on trust by the Council for the purposes of the recreation of the public as public walks and pleasure grounds which established the property as a charitable trust asset. The wording of the Conveyance also grants the Property the status of designated land under the provisos of section of the Charities Act 2011.
- 4.3.2 The proposal to accept a surrender of the current lease of the Property and to immediately grant a new lease for a term ending on 31 May 2058 requires the Council, as charity trustee, to comply with the restrictions on any disposition contained in the relevant provisions of the Charities Act 2011. These include a general obligation to achieve the best price that can be reasonably obtained on any disposal transaction but also contains several other specific obligations as detailed below.

4.3.3 Section 120 of the Charities Act 2011 contains an obligation to obtain and consider a written report on the proposed disposal from a qualified surveyor instructed by the charity trustee and acting exclusively for the Charity. A report compliant with the requirements of section 119 has been obtained and is attached to this report at Appendix 2.

4.3.4 Where land is held by a charity for a specified purpose (known as designated land), there are sometimes additional requirements that must be complied with in relation to a proposed disposal:

(a) Pursuant to section 121 of the Charities Act 2011 to give public notice of the disposal before disposing of designated land, or agreeing to dispose, unless:

(i) the land is being replaced

(ii) we are granting a lease for a term of 2 years or less with no premium or fine; and

(b) where there is no express power within the governing document of the Charity the charity trustee does not have the necessary powers to dispose of the Land without obtaining an order or scheme from the Charity Commission authorising the disposal.

4.3.5 The proposed new lease term exceeds the 2 year threshold and therefore the City Council is required to publish the required public notice giving a notice period for objections and representations of 1 month. Any objections and representations received must be given due consideration prior to the grant of the lease.

4.3.6 The Conveyance does not contain an express power allowing the charity trustee to dispose of the whole or any part of the land held on trust for the objects of the Charity. However, the Conveyance also does not contain an express prohibition against disposal of the land. In these circumstances the Charity Trustee can rely on the power of sale contained in section 6 of the Trusts of Land and Appointment of Trustees Act 1996 without obtaining an order or a scheme from the Charity Commission where the extent of the disposal is, in relation to the overall size of the land held by the Charity, so small that it will have no impact on the charity's ability to further its objects. As the majority of the land acquired on charitable trust will remain and continue to be used for the purposes of an open space and/or pleasure ground, the proposed transaction will not impact on the City Council's ability to further the charitable objects and will not require an order or scheme from the Charity Commission.

4.4 Other Implications

4.4.1 None beyond those identified in this report.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 It is considered that there are no realistic alternative options at this time. The Sub-Committee could decide not to agree to the surrender of the current lease and the granting of a new longer lease but the Property would then miss out on the investment currently on offer.

6. REASONS FOR RECOMMENDATIONS

- 6.1 The proposal to surrender the current lease and grant a new lease of this property would enable the SMT to pursue funding to facilitate improvement work to improve the overall 'offer' to visitors. This would:
- help to secure the future and assists in maintaining this valuable asset for use by the community facility into the medium term
 - enhance Sheffield as a tourist destination
 - enable the demised property to be occupied for the purposes of the charitable objects of the Charity
 - comply with the statutory provisions contained within the Act and further with the requirements of the Charity Commission.

APPENDICES

1 Principal lease terms

2 Qualified Surveyor's report

3 Plans