

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is not a Key Decision within the Council's definition and has not been included in the relevant Forward Plan

Report of the Director of Finance, Assets & Information Services.

Proposed Sale by the Council as Trustee of Carlton Park House, Carlton

1. Purpose of Report

- 1.1 To consider the sale of Carlton Park House as shown hatched black on the attached plan situated within the boundary of the Carlton Miners' Welfare Park ("the park") by the Council as Trustee of the Carlton Miners' Recreation or Pleasure Ground, Carlton by way of auction or private treaty in order to achieve best value.

2. Recommendations

It is recommended that Cabinet recommends to Council;-

- 2.1 That subject to the statutory procedures under the Charities Act 2011 being complied with, and the consent of the Coal Industry Social Welfare Organisation (CISWO) the Council in its capacity as Trustee of the Miners' Recreation or Pleasure Ground, Carlton approves the sale of Carlton Park House.
- 2.2 That the Director of Finance, Assets and Information Services on behalf of the Council as Trustee dispose of Carlton Park House by way of either auction or private treaty sale, as directed by the independent surveyor acting for the Council as Trustee, to achieve best value.
- 2.3 That the Director of Legal and Governance is given delegated authority to address any representations made by the general public to the proposal on behalf of the Council as Trustee and to conclude the necessary legal documentation relating to the disposal of the property.
- 2.4 That the Director of Legal and Governance is given delegated authority to make a recommendation to the Charity Commission to conclude the division of the capital receipt between the Council as Trustee and CISWO, that the share of the capital receipt from the sale passed to CISWO shall be used in accordance with the Trust's Governing Documents and that the share retained by the Council shall be applied towards improvements for the benefit of the remainder of the park in accordance with CISWO's requirements and any directions made by the Charity Commission, and that until settlement is concluded that the Council as Trustee hold the capital receipt in a separate trust account.

2.5 That once the division of the capital receipt is settled between the Council as Trustee and CISWO, that approval is sought for the delegated authority to be granted to the Service Director Stronger, Safer & Healthier Communities (Park Services) to use the proceeds in accordance with CISWO's requirements and any directions made by the Charity Commission.

3. Introduction

3.1 The Council is Trustee of the Miners' Recreation or Pleasure Ground, Carlton by virtue of two Conveyances dated 31st December 1924 and 5th May 1934 and a Charity Commission Scheme dated 26th November 1935 ("the Governing Documents").

3.2 Funding from the Miners Welfare Committee (CISWO) was given for the purchase of the park and for it to be laid out as recreation or pleasure grounds for the benefit of the public and for the social wellbeing and recreation of those in the coal industry.

3.3 The park includes a number of properties within its boundaries including the park keeper's house, a bowling pavilion and a community building.

4. Background

4.1 The park house was occupied by a park keeper until 2011. The post of a new park keeper was advertised, but there were no suitable applicants at that time and the premises have remained vacant since 2011.

4.2 The presence of a park keeper on site is no longer necessary or viable and the park house is no longer required for the purposes of the Trust.

4.3 Consequently it is proposed that the house is sold and that the capital receipt is used for improvements within the remaining park. Although the park house has been vacant since 2011, is in relatively good condition.

4.4 The Trust Deed states that the consent of CISWO is required for any application to dispose of part or any of the property. For this reason the Council as Trustee approached CISWO for consent to dispose of the park house. In order to prevent further deterioration of the property, CISWO have therefore confirmed that the park house can be sold subject to the capital receipt being divided equally between the Council and CISWO.

CISWO feel they are in fact in a strong position to ask for all the sale proceeds because the Governing Documents specify any proceeds must be applied for purposes connected with the social well being, recreation and conditions of living of workers in or about coal mines and with mining education and research as the Charity Commission shall approve. However CISWO have agreed to accept a 50% share of the capital receipt.

CISWO's share will be used in accordance with the Governing Documents of the Trust. CISWO expect that the Council's share will be used for improvements within the park. This is subject to confirmation by the Charity Commission but it is most unlikely that the Charity Commission will disagree with CISWO's proposals.

4.5 Options for the property are as follows:

- a) The property could be retained in the Trust's ownership and let on a residential tenancy at a market rent. The property is in relatively good condition. However, to comply with health and safety requirements it would still cost in the region of £3,000 before the property could be let. When available to let the property will require active management and have a potential average net income in the region of £3,000 per annum, which is a return of approximately 3.75% on the capital value of the park house. This is a poor return on capital particularly given the high risk nature of property management.
- b) Alternatively the Council as Trustee could arrange for the demolition of the property and incorporate the site within the park. There would be a substantial cost to this approach and once demolished the Trust would lose the possibility of any future potential income being generated in the site. This option is not considered best value.

4.6 This report recommends that the Director of Legal and Governance be given delegated authority on behalf of the Council as Trustee to conclude the division of the capital receipt between the Council as Trustee and CISWO and that until settlement is concluded that the Council as Trustee hold the capital receipt in a separate trust account.

4.7 The report also recommends that the application of such proceeds is delegated to the Director of Development provided that such proceeds are applied in accordance with CISWO's requirements, and any requirements specified by the Charity Commission.

5. Proposal and Justification

5.1 It is proposed that subject to the procedures under the Charities Act being adhered to (this includes giving public notice of the proposal and inviting representations), the Council as Trustee, grants consent to the disposal of Carlton Park House and that the proceeds are held by the Council as Trustee upon trust until such time as CISWO's share is transferred to it. The Council's remaining share will continue to be held on trust until it is spent.

It is not considered that the disposal will be to the overall detriment of the park. Once CISWO's share of the capital receipt has been paid, the remaining receipt will be applied towards future improvements in the Park.

- 5.2 If the Council as Trustee approves the sale of Carlton Park House, it will be necessary for public notices to be put in a local newspaper and public representations will be invited for the period of one month from the date of publication. It is considered that the proposal will not result in any material change in or detriment to the use of the park. It is also proposed that there be delegated to the Director of Legal and Governance the function of addressing any representations received to the proposed disposals and, subject thereto, entering into the necessary legal documentation to give effect to the proposal.

6. Implications for Local People / Service Users

- 6.1 The capital receipt received by the Council as Trustee for the disposal of the park house will be used in accordance with the requirements of CISWO and any directions made by the Charity Commission for the benefit of the recreation ground and consequently, the local community.

7. Financial Implications

- 7.1 The sale of the property will generate a capital receipt in the region of £80,000 that will be held on Trust and applied in accordance with CISWO's requirements and any directions made by the Charity Commission.
- 7.2 50% of the capital receipt will be passed to CISWO to be applied for the charitable purposes of CISWO in accordance with the Trust's Governing Documents. The intention is that the Council as Trustee will apply its proportion of the sale proceeds towards improvements within the remainder of the park.

7.3 There are no VAT implications arising as a result of this report.

7.4 The financial implications are shown in the attached Appendix A.

8. Employee implications

8.1 There are no implications arising from this report.

9. Communications implications

9.1 There are no communications implications arising from this report

10. Consultations

- 10.1 The Financial Services Manager and the Insurance and Taxation Manager on behalf of the Director of Finance, Assets and Information Services has been consulted and details are shown in item 7 of the report.
- 10.2 Local Members are aware of the proposals and have been sent a copy of this report for information and comment.
- 10.3 The Service Director Stronger, Safer & Healthier Communities (Park Services) supports the sale of the property.

11. Community Strategy and the Council's Performance Management Framework

11.1 There are no issues arising as a result of this report.

12. Tackling Health Inequalities

12.1 There are no issues arising as a result of this report

13. Climate Change & Sustainable Energy Act 2006

13.1 There are no issues arising as a result of this report

14. Risk management issues

14.1 The sale of this property will enable the purchaser to bring back into use an empty property and once occupied will be less of a danger in terms of health and safety. On disposal the health and safety management of the premises will pass onto the purchaser.

15. Health & safety issues

15.1 The proposal to sell the property will be carried out giving full consideration to current Health and Safety Legislation

16. Compatibility with the European Convention on Human Rights

16.1 There are no issues arising as a result of this report.

17. Promoting equality & diversity and social inclusion

17.1 There are no issues arising from this report.

18. Reduction of crime & disorder

18.1 In investigating the options set out in this report, the Council's duties under Section 17 of the Crime and Disorder Act 1998 have been considered.

19. Conservation of biodiversity

19.1 There are no issues arising as a result of this report.

20. Glossary

20.1 Not applicable

21. List of appendices

21.1 Appendix A – Financial Implications

21.2 Appendix B – Site Plan / Location Plan

22. Background papers

22.1 Correspondence regarding this matter is held on the files in Asset Management – not available for inspection - contains exempt information.