

Cabinet Meeting	
Meeting Date	22 September 2021
Report Title	The Walled Garden, London Road, The Mount, Faversham Community Asset Transfer
Cabinet Member	Cllr Richard Palmer, Cabinet Member for Community
SMT Lead	Emma Wiggins, Director of Neighbourhoods and Regeneration
Head of Service	Charlotte Hudson, Head of Housing and Community Services
Lead Officer	Lyn Newton, Economy and Community Services Manager
Key Decision	No
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. To comply with Section 123 of the Local Government Act 1972, the Council will advertise the proposed disposal as set out in report and consider any objections 2. To transfer The Walled Garden at The Mount in Faversham to Brogdale CIC on a 25-year lease 3. To delegate authority to the Head of Housing and Community Services and the Interim Property Services Manager to negotiate the final terms of the lease, in consultation with the Cabinet Member for Community and Cabinet Member for Economy and Property 4. To delegate authority to the Head of Mid Kent Legal Services to complete the documentation required for the lease on the terms as agreed by the Head of Housing and Community Services and the Interim Property Services Manager, in consultation with the Cabinet Member for Community and the Cabinet Member for Economy and Property

1 Purpose of Report and Executive Summary

- 1.1 This report provides Cabinet with the background to this SBC owned greenspaces land, recommendation for a community asset transfer to Brogdale CIC and their intention for the land.

2 Background

- 2.1 This greenspaces land known as The Walled Garden at the Mount in Faversham sits within the Watling Ward and shares a boundary with St. Ann's Ward (site plan Appendix I). A lease was signed between the Council and Brogdale CIC in June 2017 for a period of 5 years and following a period of significant restoration and development at the site they have indicated that they wish to take on a longer lease (25 years) to enable them to demonstrate security of tenure and business reliance to external funding bodies to facilitate further investment into the site and the certified activity programmes and qualifications gained by disabled young people including basic skills, functional skills, practical horticulture skills and creative crafts. Under the Community Asset Transfer policy, the Council does not need to do an Expression of Interest (Eoi) as Brogdale CIC is an existing tenant
- 2.2 Consultation has been undertaken with the Council's greenspaces team, the relevant Ward Members (Watling and St. Ann's) and Faversham Town Council who raise no particular objection to the proposal but would wish to see the current programme of work safeguarded and extended
- 2.3 Legal has directed that under Section 123 of the Local Government Act 1972 'that a Council may not dispose of land consisting or forming part of an open space unless before disposing of the land they cause notice of their intention to do so, specifying the land in question, to be advertised in two consecutive weeks in a newspaper circulating in the area on which the land is situated, and consider any objections to the proposed disposal which may be made to them. For the purpose of this provision a disposal includes the granting of a least of 7 years or more therefore this would apply here. The previous lease was not caught by this provision as it was only for a term of 5 years'

3 Proposals

- 3.1 To comply with Section 123 of the Local Government Act 1972, the Council will advertise the proposed disposal as set out in the report and consider any objections ahead of formalising a transfer
- 3.2 To transfer The Walled Garden at The Mount, Faversham to Brogdale CIC on a 25-year lease
- 3.3 To delegate authority to the Head of Housing and Community Services and the Interim Property Service Manager to negotiate the final terms of the lease, in consultation with the Cabinet Member for Community and the Cabinet Member for Economy and Property
- 3.4 To delegate authority to the Head of Mid Kent Legal Services to complete the documentation required for the lease on the terms as agreed by the Head of Housing and Community Services and the Interim Property Services Manager, in consultation with the Cabinet Member for Community and the Cabinet Member for Economy and Property

4 Alternative Options

- 4.1 The greenspaces land is not transferred to Brogdale CIC for improved community benefits. This is not recommended as the Council does not have any current plans to make improvements to the land nor does it plan to provide community learning for disabled young adults

5 Consultation Undertaken or Proposed

- 5.1 Consultation has been undertaken with the Council's greenspaces team, Ward Members (Watling and St. Ann's) and Faversham Town Council who raise no particular objection to the proposal but who do express a desire to see a continuation of the current programme of learning opportunities for disabled young adults.
- 5.2 Consultation has taken place with representatives from Legal, Property Services and Finance
- 5.3 Consultation with the public will be undertaken through the advertising of the proposed disposal to comply with Section 123 of the Local Government Act with any objections considered

6 Implications

Issue	Implications
Corporate Plan	The asset transfer of this land will assist with delivering Working together for a better borough (Corporate Plan 2020 – 2023); in particular Priority 3: Tackling deprivation and creation equal opportunities for everyone – 3.3. Develop a communitarian approach to partnership working based on shared objectives with like-minded agencies in the voluntary and community sectors
Financial, Resource and Property	Following the Community Asset Transfer of this land, Brogdale CIC will be in a position to apply for funding to support their project including a long-term vision to return the gardens to their original design and use. Brogdale CIC has experience of fundraising and are in discussions with funding bodies. Brogdale CIC already has a five-year lease on the land which draws to a close in June 2022 but has demonstrated a significant level of investment in the site and has a good track record of delivering a range of courses and qualifications to disabled young adults in the community.
Legal, Statutory and Procurement	To comply with Section 123 of the Local Government Act 1972, the Council will advertise the proposed disposal as set out in report and consider any objections

	A lease will need to be prepared for the transfer and this will cover all statutory and legal obligations
Crime and Disorder	Brogdale CIC to ensure that any future capital investments within The Walled Garden at The Mount will take into consideration designing out crime
Environment and Climate/Ecological Emergency	Funding to be sourced by Brogdale CIC for site improvements including any proposed site infrastructure to support enhanced classroom and/or external horticulture learning and experiences. Any building works will be subject to planning permissions which would include environmental assessment(s)
Health and Wellbeing	This site already provides space for young adults with learning disabilities to use for a range of structured activities including basic skills, functional skills, practical horticulture skills and creative crafts
Safeguarding of Children, Young People and Vulnerable Adults	Brogdale CIC has its own safeguarding policies and works with a range of partners to provide courses for those not in mainstream education.
Risk Management and Health and Safety	<p>The main risks to the asset transfer is that Brogdale CIC fail in their fundraising to build upon and enhance their current programme of work thereby placing at risk those who may place a reliance upon service provision i.e. young people with learning disabilities</p> <p>The health and safety aspects of the site and provision of courses at The Walled Garden at The Mount, Faversham will continue to be the responsibility of Brogdale CIC</p>
Equality and Diversity	Benefit to service users with learning disabilities who are given the opportunity to achieve new skills and/or qualifications through courses and programmes of work provided by Brogdale CIC
Privacy and Data Protection	There is no personal or sensitive data contained in this report, and so there are no privacy or data protection implications for the information reported

7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Site Plan

8 Background Papers

None