

Community Wealth Building
Town Hall, Upper Street, N1 2UD

Report of: Executive Member for Finance, Planning and Performance

Meeting of: Executive

Date: 23 May 2024

Ward: Hillrise Ward

[Appendix 2 to this report is exempt and not for publication](#)

Subject: Grant of lease to Sunnyside Community Gardens

1. Synopsis

- 1.1. Sunnyside Community Gardens has been occupying the main garden site at Hazelville Road London N19 3LX since 1977. Subsequently, in 1992, the gardens underwent formal registration as a charitable entity, strengthening their commitment to community service and environmental preservation.
- 1.2. Sunnyside Community Gardens has a long legacy of providing therapeutic horticulture services tailored to individuals with disabilities and those undergoing recovery from illness. Central to their mission is the commitment to fostering accessibility, social inclusivity, and serving as a valuable resource for individuals with special needs and physical disabilities.
- 1.3. Sunnyside Community Garden has been and continues to be, a successful partnership between the garden management team and the Council. Sunnyside Community Garden is a high-quality public space with a high level of community ownership and participation. They contribute enormously to the borough through their valuable work with disadvantaged groups and by strongly promoting social cohesion and integration.
- 1.4. Despite an executive decision being made in 2009, which, subject to consideration of any objections received, agreed the principle of the disposal of land to Sunnyside Community Centre, the formalisation of this arrangement never came

to fruition. Presently, Sunnyside Community Gardens continue to occupy the premises without a formal lease agreement in place. This absence of a lease significantly impairs their ability to engage in effective fundraising events as well as putting both parties at potential risk in the absence of a formal agreement.

- 1.5. The land's current designation as Open Space under the Town and Country Planning Act 1990 invokes section 123(2A) of the Local Government Act 1972 for the lease's grant. Consequently, the Council is obligated to publish its intent to grant the lease, along with the specified land, in a local newspaper for two successive weeks. It must then review any objections to the proposed disposal before deciding whether to proceed with the disposal or retain the land, taking into account those objections.
- 1.6. The lease will include continued responsibility for statutory matters such as street lighting to remain with LBI.

2. Recommendations

- 2.1. To authorise the Director of Law and Governance to advertise the proposed disposal via a lease of the Open Space identified in Appendix 1 in accordance with section 123(2A) Local Government Act 1972.
- 2.2. Subject to receiving no material objections from the public, to delegate authority to the Corporate Director of Community Wealth Building, following consultation with the Corporate Director of Resources, to grant a new lease to Sunnyside Community Garden based on the terms set out in the exempt Appendix 2.

3. Background

- 3.1. Sunnyside Community Gardens has a long legacy of providing therapeutic horticulture services tailored to individuals with disabilities and those undergoing recovery from illness. Central to their mission is the commitment to fostering accessibility, social inclusivity, and serving as a valuable resource for individuals with special needs and physical disabilities.
- 3.2. Sunnyside Community Garden has been and continues to be, a successful partnership between the garden management team and the Council. Sunnyside Community Garden is a high-quality public space with a high level of community ownership and participation. They contribute enormously to the borough through their valuable work with disadvantaged groups and by strongly promoting social cohesion and integration.

- 3.3. This is achieved through the implementation of sound horticultural practices facilitated by horticultural therapy. Sunnyside Community Garden has diligently developed and executed a diverse array of activities and initiatives that actively engage with the local community. From enriching horticultural therapy sessions to vibrant organic food markets, bicycle maintenance workshops, and lively summer festivals, Sunnyside Community Gardens stand as a vibrant hub of community interaction.
- 3.4. The garden's sustainability relies on funds generated through fundraising efforts and garden maintenance work. A lease will underpin fundraising and grow the garden maintenance operations. Sunnyside Community Garden must secure funding for its functioning. Therefore, they need to secure a long-term tenancy from the Council. Moreover, this arrangement removes the Council from the financial burden of maintaining the land should it become vacant.
- 3.5. Given that Sunnyside Gardens have been in occupation since 1977 and that the Council approved a disposal in principle to Sunnyside Gardens no alternative options for the use of the land have been considered.
- 3.6. The grant of a lease to Sunnyside Gardens will allow them to secure funding to enable them to develop, manage, maintain and sustain their garden sites and projects. Hence, removing the financial responsibilities from the Council.

4. Implications

4.1. **Financial Implications**

- 4.2. Under the terms of the proposed lease the tenant will take on responsibility for all utilities and rates and is responsible for maintenance of the premises. The Council is responsible for landlord insurance but will recharge the cost on to the tenant. A review of Sunnyside Community Gardens most recent financial statements (year to 31 March 2023) indicate that they are in good financial health.

4.3. **Legal Implications**

- 4.4. The Council acquired the land on which the Sunnyside Gardens are situated by statutory transmission from the former Greater London Council (GLC) on 1 October 1981. The land was held by the GLC for housing purposes and transferred to the Council for the same purpose. We have no record of an appropriation of the land from housing purposes to another use.
- 4.5. The Council has the power under s32 of the Housing Act 1985 to grant the proposed lease with the Secretary of State's consent. The Secretary of State granted a General Consent updated in 2013 in respect of disposals of land under s32 and the proposed lease to Sunnyside Gardens would come within the terms of paragraph A3.2 of the General Consent as it is a disposal of vacant land.

- 4.6. As the current use of the land has been identified as Open Space under the Town and Country Planning Act 1990, s123 (2A) of the Local Government Act 1972 will apply to the granting of the lease. This means the Council must advertise its intention to grant the lease specifying the land in question in a local newspaper for two consecutive weeks and consider any objections to the proposed disposal before making a decision either for disposal or retention of the land having regard to those objections.
- 4.7. Although the Council have the necessary power to grant the lease, under s123 of the Local Government Act 1972 the council are under a statutory obligation to obtain the open market value and the best consideration that can be reasonably obtained. Any disposal at less than the best rent available and any decision to do so must be taken reasonably, in the light of the market value of the land/buildings and the amount of the proposed undervalue and with due regard to the Council's fiduciary duty to its Council tax payers. Accordingly in deciding whether or not to grant the lease at less than best consideration the Council must consider properly the benefits to the community of doing so, as set out in this report, and weigh up and balance those benefits against the forgoing of a capital receipt or market rent for the land.
- 4.8. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**
- 4.9. An Environmental Impact Assessment is unnecessary as the lease is formalizing the existing arrangements already in place.
- 4.10. Community gardens offer numerous environmental benefits, including green space creation, biodiversity enhancement, water management, soil health improvement, waste reduction, and support for local food systems. By promoting environmental sustainability and fostering community engagement, community gardens play a vital role in building healthier, more resilient, and more environmentally sustainable communities.
- 4.11. **Equalities Impact Assessment**
- 4.12. The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in

public life. The council must have due regard to the need to tackle prejudice and promote understanding.

- 4.13. An Equalities Impact Assessment was completed on 21 March 2024 and its main findings were that there were no equality implications in respect of this proposal.

5. Conclusion and reasons for recommendations

- 5.1. Sunnyside Community Garden has been and continues to be, a successful partnership between the garden management team and the Council. Sunnyside Community Garden is a high-quality public space with a high level of community ownership and participation. They contribute enormously to the borough through their valuable work with disadvantaged groups and by strongly promoting social cohesion and integration.
- 5.2. It is proposed that the Council regularises the position by granting a lease to Sunnyside Community Garden which will allow them to manage and look after the land in the Council's ownership forming the gardens.
- 5.3. The lease will allow them to secure funding to enable them to develop, manage, maintain and sustain their garden sites and projects. Hence, removing the financial responsibilities from the Council.

Appendices:

- Appendix 1 Floor Plans
- Appendix 2 Exempt Heads of Terms

Final report clearance:

Authorised by:

Executive Member for Finance, Planning and Performance

Date: Date the report received final approval: 3 May 2024

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