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| AGENDA ITEM: 11 | Pages 233 – 239 |
| Meeting | Cabinet Resources Committee |
| Date | 28 March 2011 |
| Subject | Land on the south side of Trott Road N10 |
| Report of | Cabinet Member for Resources and Performance |
| Summary | To return part of this land to allotment use and to subsequently report about the options for use of the remaining land. |

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| Officer Contributors | George Church, Principal Valuer (Property Services) Judith Ellis, Valuation Manager (Property Services) |
| Status (public or exempt) | Public |
| Wards affected | Coppetts |
| Enclosures | Plan No.22230/1, 22230/2 Appendix A Plan of the Trott Road allotments in 1988 |
| For decision by | Cabinet Resources Committee |
| Function of | Executive |
| Reason for urgency / exemption from call-in | Not applicable |

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1. RECOMMENDATIONS

- 1.1 That the land shown hatched black on drawing number 22230/2 and marked former allotment land be returned to allotment use by way of a management agreement.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Resources Executive Committee, 22 January 2001 (Decision item 16) – resolved that, the freehold sale of part of the land (shown edged black on drawing number 22230/1 be approved in principle and the Head of Development and Regeneration be instructed to enter into further negotiations with Paddington Churches Housing Association, reporting the results thereof to a future meeting of the Executive Committee for further consideration.
- 2.2 Cabinet, 29 November 2010 (Decision item 11) – resolved
- That the Council explore a new Big Society management model for the Borough's allotments sites, providing for allotment site management with the sites run by their users.
 - To start a new management model with Brook Farm allotments with responsibility for the management of the site transferred to the allotment society
 - That the council approaches Central Government to seek a change to legislation governing allotments so that new leases can be granted and current leases renewed and varied thereby providing an alternative option for creating allotment management by their users
 - To advertise for interested parties to manage the remaining direct let and self collect sites with the view to employing the same approach or a variation on this in order to devolve as much management responsibility as possible to plot holders.
 - To seek to recover full costs from those sites which do not choose to move to this management model, through the fees and charges mechanism for implementation in 2011/12/13.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The Corporate Plan commits the Council to delivering better services with less money and ensuring that the Borough is clean and green as a strategic objective under the 'Successful London Suburb' priority. A key principle of the medium term financial strategy is to continually review the use of Council assets so as to reduce the cost of accommodation year on year and to obtain best consideration for any surplus assets to maximise funds for capital investment and/or the repayment of capital debt. This proposal does this by bringing back into cultivation an area of previously abandoned allotments and giving authority to officers to explore options to bring the main part of the site into use for Corporate Plan objectives.

4. RISK MANAGEMENT ISSUES

- 4.1 Occupation of the former allotment land shown hatched black on Drawing 22230/2 for allotment use will require some form of legal contract between the Council and the allotment holders. In the legal issues section of this report it is stated that due to the repeal of Section 3 of the Small Holdings and Allotments Act 1926 a new lease of allotment land is not permitted by law and that a limited variation of an existing lease or adding new land to the demise would normally operate as a surrender and regrant, and is therefore not permitted.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The management agreement between the Council and the allotment managers will contain provisions requiring the managers of the site to comply with the Equality Act 2010 in selecting and managing the plot holders, so as to ensure that no discrimination takes place and that any category(ies) of person(s) may hold a plot on the allotment site, irrespective of race, sex, disability, sexual orientation, marital status, transgender, age, religion or religious belief. Further, the Council's Equalities Policy and Scheme takes account of the Council's statutory duty to eliminate discrimination and inequality amongst persons of different race, gender and disability and to promote equal opportunities amongst persons of different race, gender and disability. The, proposed, management agreement has been evaluated against the principles in the Equalities Policy and Equalities Scheme and no adverse implications for any, specific, equalities group has been identified.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The costs of site clearance, fencing, turning the earth of the site into cultivatable condition, the provision of a site hut, a water supply and toilets will be the responsibility of the ploholders. There are no procurement, performance and value for money, staffing, IT or sustainability implications.

7. LEGAL ISSUES

- 7.1 The land edged red on Drawing number 22230/2 has statutory classifications as Permanent Allotment land and Metropolitan Open Space. The fact that only part of the land was previously used as allotment land and the greater part has not been used for that purpose for many years, is irrelevant to this classification. This classification means that in order to release land from allotment status it must be established that there is no demand for allotments and also that suitable alternative land is available. The Halliwick allotment society which occupies allotment land opposite the subject site and which used to occupy the part of the subject site shown hatched black on drawing 22230/2 has strong demand from plot holders to bring the land hatched black back into use as allotments.
- 7.2 Section 3 of the Small Holdings and Allotments Act 1926 (the 1926 Act), which contained a power of leasing allotments to co-operative societies, has been repealed. By section 29 of the 1908 Act, the Council is permitted to appoint managers to run its allotments under a management agreement. By section 29(1) of the 1908 Act the Council: "may from time to time appoint, and, when appointed, remove allotment managers... who shall consist either partly of members of the council and partly of other persons, or wholly of other persons, so that in either case such other persons be residing in the locality and liable to pay to the Council in whose area the land is situated an amount in respect of council tax."
- 7.3 By section 29(2) of the 1908 Act, the Council may give directions as to the manager's proceedings and powers. The allotment managers may be empowered by the council to do anything in relation to the management of the allotments which the Council are authorised to do.

- 7.4 The management agreement will set out the rights and responsibilities of the Council and the allotment society who will manage the area of the subject land shown hatched black on drawing 22230/2.
- 7.5 The management agreement route will be necessary because, as stated above Section 3 of the Small Holdings and Allotments Act 1926 which contained a power of leasing allotments to co-operative societies has been repealed. The current leases to Halliwick Allotment society was granted under section 3 of the Small Holdings and Allotments Act 1926, which has now been repealed. Counsel has advised that variations by way of extending the term of an existing lease or adding new land to the demise would normally operate as a surrender and grant of a new lease by operation of law.

8. CONSTITUTIONAL POWERS

- 8.1 The Council's Constitution in Part 3, Responsibility for Functions, states in paragraph 3.6 the functions delegated to the Cabinet Resources Committee including all matters relating to land and buildings owned, rented or proposed to be acquired or disposed of by the Council.

9. BACKGROUND INFORMATION

- 9.1 The land edged red on Drawing number 22230/2 has statutory classifications as Permanent Allotment land and Metropolitan Open Space. The fact that only part of the land was previously used as allotment land and the greater part has not been used for that purpose for many years, is irrelevant to this classification. This classification means that in order to release land from allotment status it must be established that there is no demand for allotments and also that suitable alternative land is available. The Halliwick allotment society which occupies allotment land opposite the subject site and used to occupy the part of the subject site shown hatched black on drawing 22230/2 has strong demand from plot holders to bring the land hatched black back into use as allotments.
- 9.2 Appendix A is a plan of the Trott Road allotment sites in 1988. It shows the subject land lying south of Trott Road and the allotment land on the north side of Trott Road which continues in allotment use today.
- 9.3 In the early 1990s the land shown hatched black on drawing number 22230/2 was surrendered by the Halliwick allotment society as there was insufficient demand for plots.
- 9.4 The decision of the Resources Executive Committee on 22 January 2001 to dispose of the land was not proceeded with, due to the anticipated difficulties envisaged in seeking to remove the statutory classification of Permanent Allotments from the land.
- 9.5 The Halliwick allotment society have asked the Council to bring the land previously used as allotments on the south side of Trott Road hatched black on drawing 22230/2, back into use because the society has strong demand for plots.

- 9.6 Dependant on the Committee's decision, an officer will meet the Halliwick allotment society and will agree terms for the management agreement. In principle, this will enable the society to take full responsibility for clearing the land previously used as allotments of the existing self sown spinney, fencing the site, providing a water supply, if required and preparing the soil to enable it to be used as allotments. The society will thereafter manage the site, including all outgoings. There will be a provision for termination of the agreement in certain circumstances. The details of the terms negotiated will be reported under the Delegated Powers of the Commercial Director of the Council.
- 9.7 It should be noted that all the land on the south side of Trott Road shown on drawing 22230/2 is classified as Metropolitan Open Land and as Permanent Allotments. The classification as Metropolitan Open Land is similar to the classification as Green Belt, it does not conscribe the re-use of the land hatched black on the drawing as allotments but it will conscribe the options available to the Council in bringing the remainder of the land back into use. Planning and legal investigations are in hand to enable the options for the remainder of the site to be considered. The outcome of these investigations will be the subject of a subsequent report to this committee
- 9.8 In the opinion of the Borough's Valuation manager, as the land shown hatched black on drawing 22230/2 has the statutory status of Permanent Allotment land and there is proof of demand for allotment use of this area of former allotments, the correct course of action is for the Council to return the land hatched black to allotment use. This use will be formalised by a management Agreement being entered into by the Council and the Allotment Society.

10. LIST OF BACKGROUND PAPERS

- 10.1 None.

Legal – POJ

CFO – JH

Appendix A

Plan showing the Halliwick allotment site as at 1988

The land on the north side of Trott Road remains as allotments.
Plots 1-15 on the south side of Trott Road were surrendered for allotment use in the early 1990s.

