

Report to: **Hub Committee**

Date: **1st Feb 2022**

Title: **Request for statutory designation of land and a new Long Lease – Milton Abbot allotments**

Portfolio Area: **Lead Member for Communities – Cllr Terry Pearce**

Wards Affected: **Milton Abbot**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: After call in period

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RECOMMENDATION:

That the Hub Committee

Authorises the Head of Assets, in consultation with the Section 151 Officer and Leader of the Council:

- 1) to formally designate the land as statutory allotments; and
- 2) to progress and conclude detailed negotiations for a new lease to the Milton Abbot Allotments Association for a term in excess of 15 years.

1. Executive summary

- 1.1 The Milton Abbot Allotment Association has asked the Council to consider a long lease of 25 years for an area of underused Council owned land in Milton Abbot for the purpose of establishing an allotment site.
- 1.2 The current status of the land is not clear so authority is sought to formally designate the land as statutory allotments.
- 1.3 The Council has delegated power to the Corporate Property Officer (Head of Assets) to grant licences, periodic tenancies and leases up to a term not exceeding 15 years.

- 1.4 Accordingly, the Head of Assets seeks delegated authority to proceed with negotiations with the Milton Abbot Allotment Association with a view to agreeing a new lease for a term in excess of 15 years. Confirmation of the proposal to be agreed in consultation with the Section 151 officer and Leader of the Council.

2. Background

- 2.1 The Council owns an area of land between Fore St and Higher Edgcombe Lane in Milton Abbot. The land is thought to have been previously used for allotments, with one allotment plot having been retained and tended by a neighbouring resident (for a period in excess of 10 years and paying a modest annual sum for use of an allotment plot). Other than this one plot, the land has not been actively managed for a decade and is covered in brambles.
- 2.2 The land is currently designated as housing land as is subject to a restrictive covenant for use in accordance with the Housing Acts imposed by the Duke of Bedford in 1952 when the Council purchase the land.
- 2.3 The Milton Abbot Allotment Association has approached the Council to seek to make better use of this underused land. They have proposed re-establishment of the entirety of the site for allotments, anticipating that the site may offer 6 large and 2 small plots, as well as accommodating a communal poly tunnel and 12 small raised beds for those with less time, energy or ability.
- 2.4 The Allotment Association have tested local appetite and consider there is need and demand for this use. They highlight the benefits of allotments to the community and natural environment, including mental and physical health and wellbeing, reduced food miles, community cohesion, and habitat for wildlife.
- 2.5 This in turn is consistent with the 'Strengthening Communities,' 'Enhancing Community Wellbeing' and 'Natural Environment' themes of the Plan for West Devon.
- 2.6 The long lease would give the Allotment Association the means to unlock external funding sources to meet the relatively modest start-up costs to prepare the site, and to give them the freedom and confidence to manage the site effectively and appropriately for their community.

3. Outcomes/outputs

- 3.1 To formally designate this land as statutory allotments.

- 3.2 To agree a new lease with the Milton Abbot Allotment Association, on terms that enable them to secure appropriate grant funding to make the site fit for the purpose of allotment provision and to realise its potential for the community.

4. Options available and consideration of risk

- 4.1 The site itself is restricted in terms of options open to the Council. There is a restrictive covenant upon the land, imposed when the Council bought the land in 1952 (relating to use for the purposes of the Housing Act 1936).
- 4.2 Notwithstanding practicalities (in terms of access), this restrictive covenant would prevent sale of the land for building of new housing (unless the previous landowner gave consent which is considered unlikely). The covenant is considered unlikely to restrict sale of the land to adjoining properties.
- 4.3 There is no formal designation of this site as allotments but there is evidence of historic use of the whole site for allotments and one plot has continued to be rented from the Council and for use as an allotment by a neighbouring resident for a period in excess of 10 years.
- 4.4 Designating land as statutory allotments does bring a high level of restriction and protection through Allotments Acts, and general planning laws, but it would enable Milton Abbot Allotment Association to apply for funding which they would otherwise not be able to access.
- 4.5 The Ward Member has been included in discussions to date about the proposed use of the site for allotments and is supportive of the proposal. This extends to a preference to seeing the site used for this purpose, and a conveyance of the importance to the community of seeing this aspiration realised.
- 4.6 Draft Heads of Terms have been circulated to the Milton Abbot Allotment Association and no concerns have been raised.
- 4.7 The Council placed a notice in the local press in mid-December advertising the intention to dispose of an interest by way of a 25 year lease of the parcel of land for use as allotments, with a 21 day period for submission of representations. No representations were received.

5. Proposed Way Forward

- 5.1 The Head of Assets seeks delegated authority to proceed with negotiations with the Milton Abbot Allotment Association to seek to agree a new lease for a term in excess of 15 years. Confirmation of the proposal to be agreed in consultation with the Section 151 officer and Leader of the Council.

- 5.2 The proposed way forward is consistent with the Council's recently published 'Plan for West Devon' and makes best use of the land for the benefit of the local community, particularly in the context of the restrictive covenant upon the land. The long lease approach 'empowering' the local community and consistent with the highest level of community involvement highlighted in the Council's Consultation and Engagement Strategy.
- 5.3 In recognition of the lack of existing cost to the Council incurred by the land (i.e. lack of annual management), and the community benefit the proposal will bring, it is proposed to waive any rent for the first year, with an annual rent of £100 thereafter.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Hub Committee has authority to approve the disposal of the Council's assets (including leases). If approved, it will be necessary to use the provisionally agreed Heads of Terms as the basis of a new lease agreement, which will be prepared by the Council's legal team.</p> <p>There is a restrictive covenant upon the land imposed when the Council bought the land from the Duke of Bedford in 1952. The covenant is 'not to use the property hereby conveyed otherwise than for the purposes of the Housing Act 1936.'</p> <p>Subsequent Acts repealed the Housing Act 1936, finally consolidating provisions within the Housing Act 1985. Under the 1985 Act, the Council is able to dispose of land held for housing purposes with the Secretary of State's consent. The Secretary of State has issued a general consent to all local authorities to dispose of vacant land at any price. For these purposes, 'disposal' includes the granting of a lease of any duration.</p> <p>Allotment sites owned by local authorities can be designated as 'statutory' or 'temporary.' Statutory sites are subject to protection under the Allotments Act 1925 and the subsequent use of the land is restricted. Temporary sites have no security beyond the usual planning system requirements.</p>

		The use of the site is at odds with its current designation as housing land. A grant of a lease for 25 years for use as allotments could not be considered temporary so it is not appropriate that this is deemed a 'temporary' site.
Financial implications to include reference to value for money		<p>The site does not cost the Council financially, save for periodically (seemingly ever 5-10 years) the Council has instructed a Grounds Maintenance contractor to trim a strip around the boundary typically triggered by neighbour complaint about brambles.</p> <p>Whilst detailed negotiations are yet to commence, there is potential to reduce the Council's repairing obligations for this asset, thus possibly making savings from the Repairs and Maintenance budget.</p>
Risk		<p>The main risk in not approving this report will be that, as officers, delegated powers will limit any potential new lease term to a maximum of 15 years. From discussions with the Allotments Association this may preclude them from securing some external funding sources that require a longer lease under their eligibility conditions</p> <p>There is some potential for conflict with the proposed use of the land and neighbouring properties. To a degree this is mitigated by precedent, insomuch as the previous/current use of the land has been as allotments. The lease itself will require maintenance of the site by the Allotments Association at a good standard, and such standards would in turn be expected of allotment plot holders.</p>
Supporting Corporate Strategy	Y	<p>Strengthening communities</p> <p>Enhancing community wellbeing</p> <p>Growing our natural environment</p>
Climate Change - Carbon / Biodiversity Impact	Y	<p>The proposal will enable the site to offer a more biodiversity habitat.</p> <p>The proposal will reduce food miles for the local community.</p> <p>The site is central in the village with pedestrian access only.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	The site is level access, and has potential to be an inclusive site.
Safeguarding	N/A	
Community Safety, Crime and Disorder	Y	The site would reduce the perception that the site is neglected, instead bringing the site back into active and managed use by the local community.

Health, Safety and Wellbeing	Y	The proposal would continue to enhancing local residents physical and mental health and wellbeing.
Other implications	N/A	

Supporting Information

Appendices:

None

Background Papers:

None