



# EXECUTIVE BOARD DECISION

<b>REPORT OF:</b>	Executive Member for Growth and Development
<b>LEAD OFFICERS:</b>	Strategic Director of Growth & Development
<b>DATE:</b>	Thursday, 14 November 2024

<b>PORTFOLIO/S AFFECTED:</b>	Growth and Development
<b>WARD/S AFFECTED:</b>	Little Harwood & Whitebirk, Ewood, Mill Hill & Moorgate, Audley & Queens Park, Roe Lee, Billinge & Beardwood
<b>KEY DECISION:</b>	Y

**SUBJECT: Asset Transfer of Statutory Allotments**

## 1. EXECUTIVE SUMMARY

This report sets out a proposal to asset transfer the management and maintenance of 8 allotment sites from the Council to formal structured community groups.

The sites proposed for asset transfer by way of lease are:

- Broadfold Allotments
- Ewood Allotments
- Feniscliffe Allotments
- Leyburn Road Allotments
- Queens Park Allotments
- Sunnybank Road Allotments
- Teak Street Allotments
- Witton Park Allotments

Options for the remaining Council-owned allotment site at Burnley Road in Blackburn will be brought forward in a future report to Executive Board, once plans for the wider Carl Fogarty Way / Imperial Mill area have been finalised.

## 2. RECOMMENDATIONS

That the Executive Board:

- 1) Approves the asset transfer of the 8 statutory allotments by way of long leasehold to formal structured community groups that have pre-existing connections to the relevant allotment site; and
- 2) Delegates authority to the Strategic Director of Growth & Development, in consultation with the Deputy Director of Legal and Governance, to agree final terms for the asset transfers; and all associated legal, financial, and administrative arrangements.

### **3. BACKGROUND**

The Council's statutory allotments are a valued community resource which are popular and well-used by the plot-holders. It's recognised that they're important for health and well-being and have many benefits to residents of all ages. The sites are in daily use, and over the years it's become apparent that the communities which use the sites may benefit from having direct management control.

In addition, the current 'two-tier' management of the sites has become cumbersome and problematic for both the Council and the site committees, in part due to aged legislation, outdated management practices, and often complex appeals procedures afforded to plot holders.

The proposal aims to provide genuine community control, and allow the community organisations to take decisions over the use of the assets for community benefit, and to potentially also use the property as leverage for additional external funding.

### **4. KEY ISSUES & RISKS**

The project is driven by a desire to protect the provision of statutory allotments for the future whilst empowering the community to take ownership of its assets, to realise both efficiencies for the Council and provide community benefits to the immediate neighbourhood.

In order to develop the asset transfer proposals, a long period of informal and formal discussion has taken place between the Council and the Blackburn and District Allotments Association over the past year, supported by the NSALG (National Society of Allotment & Leisure Gardens). Many of the site stakeholders are positively engaging in the opportunity to move to self-management, with a transitional period of support from the Council.

Under recommendations from the Council's legal team, site-specific committees are forming legally recognised groups. The groups are looking to proceed with the format of a co-operative as advised by NSALG who will support multiple simultaneous applications.

The committees are made up of devoted volunteers who willingly commit to ensure the allotment provision remains active in the community, and a standard suite of management documents to support effective fair management will be produced in collaboration with the Council, NSALG and Blackburn and District Allotment Association.

The leases will follow a standard format with bespoke nuances for individual sites based on location, with approval of specific details to be delegated to the Strategic Director for Growth & Development in consultation with the Deputy Director of Legal and Governance. In all cases, the leases with the Council will be at no cost to the committees, and the rental income from the individual plot-holders will be retained by the leaseholder committee. In turn, the leaseholder committee will also be responsible for overall site maintenance and plot-holder management.

### **5. POLICY IMPLICATIONS**

The proposal aligns with the Council's Corporate Plan Core Mission for happier, healthier and safer communities. It also achieves an action as set out in the Council's Strategic Asset Management Plan for 2023-2026.

## 6. FINANCIAL IMPLICATIONS

The Council's tenanted property income will reduce by around £14K per year. At the same time, property management and maintenance costs will reduce, allowing the proposal to be cost-neutral.

## 7. LEGAL IMPLICATIONS

7.1 Disposal by way of lease aligns with the current adopted policies and practices as set out in the Strategic Asset Management Plan.

7.2 The Council's Disposal policy allows for disposals of land for stated community benefits at less than "best consideration reasonable obtainable" which is otherwise a statutory duty on the Council. A number of exceptions to the statutory duty include the General Consents Order 2003 which is being relied upon here to justify a nominal / peppercorn rent for the leases.

7.3 'Special purchaser' status is granted when the Council intends to only deal with one or a limited number of potential parties in acquiring land from the Council rather than 'going out to the market'. The Council in proposing to grant leases to the current allotment committees/groups for each of the 8 sites is justified by deeming these groups as 'special purchasers'. They all have an ongoing and inherent connection to the relevant sites and are suitably qualified to operate the allotments with greater independence.

7.3 It remains important to note that the Council's broader statutory duties in relation to allotments (imposed by the various Allotment Acts and more broadly by the Equality Act 2010) still remain Council duties even after entering into the proposed leases. This is why continued monitoring and review of the allotment sites along with receiving feedback and providing assistance as necessary remains important. Completion of the intended annual surveys that the community groups will be required to complete as part of their lease obligations will also be important.

7.4 Long leases are required to be registered at the Land Registry by the tenant and the tenant in essence must be a natural or legal person. A simple committee group would typically have to register their legal interest in the personal names of several of the trustees or committee members. However each time a trustee is replaced, there would need to be formal documents entered into to register such a change. This would reduce the efficiencies that are sought to be achieved by the Council. Legal Services has recommended that the allotment operators are ideally incorporated to become a 'legal person' so there is a reduced ongoing requirement to 'update' the current trustees details at Land Registry. This process can also reduce any inherent concern about liability for individual committee members' "being on the lease".

7.5 While the terms being proposed by the Council are all considered bearing in mind their overall fairness and capacity of the allotment groups to comply with them, it is considered inherently important that the each allotment group has the support of independent advisers and therefore the assistance of NSALG is therefore a continued important facet to this project.

7.6 The final lease terms and related arrangements between the Council and the allotment groups will be reported appropriately as part of the Council's commitment for transparency in decision making.

## 8. RESOURCE IMPLICATIONS

The transfers will be completed using existing in-house Council resource from the property and legal teams.

## 9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

## 10. CONSULTATIONS

Over the past 18 months, the Council has been working with the Blackburn and District Allotments Association in conjunction with support from NSALG.

This has included forming a working group with Blackburn and District, with representatives from several individual sites. Open discussions with committee members and plot holders have taken place over an 18-month period, the key takeaways being requests for physical site improvements.

These requests have formed the basis of improvement works, some of which are complete and some underway, to ensure sites are in reasonable and practical lease-ready state.

## 11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

## 12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	<b>PMO Growth</b>
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<b>DATE:</b>	17/10/2024
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<b>BACKGROUND PAPER:</b>	
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