Summary of main issues

1. Reservoir and Victoria Allotment sites are owned by the Rt Hon Lord Mowbray and Stourton. The Council has leased them from Lord Mowbray and Stourton from 1913 and 1908 respectively on an annual basis for allotment purposes. The leases can be terminated by six months notice expiring on 2 February each year. The sites are managed on behalf of Parks and Countryside by the Rothwell Allotments Association.

2. The sites have become available for sale on the open market. The closing date for receipt of best and final offers is 12 noon 28 October 2011.

3. The Parks and Countryside Service would like to purchase the sites to safeguard their long term future use as allotments for the community.

Recommendations

4. It is recommended that the terms reported be approved, and an offer be submitted in
an attempt to purchase the sites.

1 Purpose of this report

1.1 The purpose of this report is to recommend the terms for the Council’s acquisition of two allotment sites in Rothwell, known as Reservoir and Victoria Allotments. The freeholder of the sites, the Rt Hon Lord Mowbray and Stourton, has put them on the open market for sale, through agents Strutt and Parker, with a closing date for receipt of best and final offers at 12 noon 28 October 2011.

2 Background information

2.1 The allotment sites are shown on the attached plans.

i) Plan 14546/A Reservoir Allotments on Back Haigh Avenue comprise approximately 0.49 ha (1.2 a) and accommodates 13 plots of various sizes, with no vacancies. This site has been leased by the Council from Lord Mowbray and Stourton since 6 March 1913. The Council pays a rent of £350 annually.

ii) Plan 14545/A Victoria Allotments on Victoria Road comprise approximately 1.5 ha (3.7 a) and accommodates 75 plots of various sizes, with 4 vacancies, which will be filled soon. This site has been leased by the Council from Lord Mowbray and Stourton since 25 August 1908. The Council pays a rent of £1,200 annually.

2.2 The leases are governed by the Allotments Acts of 1922 and 1950 and can be determined on service of 6 months notice to expire on 2 February in any year. Both sites are currently managed on the behalf of Parks and Countryside by the Rothwell Allotments Association.

2.3 The sites are designated N1A in the Unitary Development Plan. The Policy N1A specifies development of land currently used as allotment gardens will not be permitted for purposes other than outdoor recreation, unless the need in the locality for greenspace is already met and a suitable alternative site for allotment gardens can be identified.

2.4 The Council (Parks and Countryside) had been asked whether it wished to purchase the sites, but negotiations did not reach a detailed stage. The sites were then advertised for sale on the open market and a closing date for receipt of best and final offers has been set at 12 noon 28 October 2011. Offers are being invited on an unconditional basis, subject to the Council’s leases.

3 Main issues

3.1 The sites are not Statutory Allotments and do not enjoy the protection that designation would confer. The UDP N1A allocation does offer a degree of protection as detailed in paragraph 2.3 above. The agent’s sales particulars state “The land is utilised as allotments and although not currently allocated for development, a submission has been made for the inclusion of the land in the Leeds Strategic Housing Land Availability Assessment update.” The outcome of the SHLAA, and hence which new sites will be available for residential development to meet local growth, will not be know for at least three years.
3.2 Any new third party owner of the sites could serve notice on the Council to terminate the leases in which case the Council would have to terminate its agreement with the Rothwell Allotments Association. There would be no guarantee that a new owner would allow the Association to remain in occupation. In order to secure the future of the allotments for the community it is proposed that the Council submits an offer for the sites in an attempt to purchase them.

3.3 Attempts to purchase the sites by negotiations were not concluded. The closing date for best and final offers now introduces an element of competition and there is no certainty that the Council will be successful in purchasing the sites. A valuation of the sites has been undertaken which is reported in the confidential appendix accompanying this report. It is recommended that the valuation should be the sum offered for the purchase.

3.4 Offers for the freehold interest in the sites are being invited, subject to the Council’s leases. The leases may be terminated by any new owner, or in the event of the Council being successful in acquiring the sites will merge with the freehold interest. Approval is sought to the terms detailed in this report and to the submission of an offer for both sites by the closing date of 12 noon 28 October 2011. Any offer submitted will not be binding but if accepted there will be an expectation by the vendor that the matter will proceed to completion.

4 Corporate Considerations

4.1 Consultation and Engagement

4.1.1 Parks and Countryside Officers have been working with Ward Members and the Executive Member for Leisure all of whom are supportive of the Council’s acquisition of the sites. Allotments holders and local residents are concerned that the sites may fall into third party ownership and are keen for the Council to acquire the land to guarantee its future as allotments for the community.

4.2 Equality and Diversity / Cohesion and Integration

4.2.1 There are no issues arising from the recommendation to acquire the sites.

4.3 Council Policies and City Priorities

4.3.1 Acquisition of the sites to guarantee their future as allotments contributes significantly to help deliver the City Council’s Health and Wellbeing City Priority Plan and increases the sense of belonging that builds cohesive and harmonious communities.

4.3.2 Allotments are a way of providing opportunities for those people who wish to grow their own produce as part of the long-term promotion of sustainability, health and social inclusion. Additionally, they are recognised as promoting healthy eating, recreation, exercise and links with education.

4.3.3 The key policy relevant to allotments is Policy N1A which protects allotments currently in use. These two sites have also been identified in the Leeds Unitary Development Plan (UDP) as N1A allotment land.

4.4 Resources and Value for Money

4.4.1 The acquisition of the sites must be funded and at present this potential acquisition does not feature in the Capital Programme. Details of a potential funding source is contained in the confidential appendix.
4.4.2 The Council currently pays an annual rent to the freeholder totalling £1,550. This cost will not be incurred in the event of the sites being acquired. In the event of the land being sold to a third party and the Council’s leases remaining in place then the new owner could review the rent and the annual cost increases.

4.5 Legal Implications, Access to Information and Call In

4.5.1 Under Part 3 Section 3E Paragraph 2(a) of the Council’s Constitution (Officer Delegation Scheme (Executive Functions)) the Director of City Development has authority to discharge any function of Executive Board in relation to the management of land (including valuation, acquisition, appropriation, disposal and any other dealings with land or any interest in land) and Asset Management.

4.5.2 The Acting Chief Asset Management Officer has authority to take the decisions requested in this report under Executive functions 1 and 10 (specific to the Director of City Development) of the Director of City Development’s sub delegation scheme.

4.5.3 The proposal constitutes a significant operational decision and is therefore not subject to call in.

4.5.4 The Head of Property Services confirms the sum being recommended as the purchase price represents the market value for the sites in their current use which reflects the UDP allocations.

4.6 The information contained in the Appendix to this report relates to the financial or business affairs of a particular person, and of the Council. This information is not publicly available from the statutory registers of information kept in relation to certain companies and charities. It is considered that since this information was obtained through one to one negotiations for the purchase of the land/property referred to then it is not in the public interest to disclose this information at this point in time. Also the release of such information would or would be likely to prejudice the Council’s commercial interests in relation to and undermine its attempts to acquire by agreement similar properties in relation to and undermine its attempts to acquire by agreement similar properties in the locality in that owners of other similar properties would be aware about the nature and level of consideration which may prove acceptable to the Council. It is considered that whilst there may be a public interest in disclosure, much of this information will be available from the Land Registry following completion of the purchase and consequently the public interest in maintaining the exemption outweighs the public interest in disclosing this information at this point in time. It is therefore considered that this element of the report should be treated as exempt under rule 10.4.(3) of the Access to Information Procedure Rules.

4.7 Risk Management

4.7.1 The risks associated with the proposed acquisition are detailed below:

i) There is a risk that the Council’s offer is not high enough to secure the sites. A valuation has been undertaken by Property Services which is reported in the confidential appendix. It is impossible to assess the degree of risk which exists in submitting a sealed bid, but it must be acknowledged there is a risk the Council is not successful in acquiring the sites.

ii) There is a risk that if the Council becomes the freehold owner of the sites it is exposed to greater liabilities than it is currently exposed to by occupying the sites by way of the two leases. Due to time constraints in assembling the offer
it has not been possible to inspect the leases, nor the freehold title. The offer will not be binding and could be made conditional upon the Council being satisfied with the freehold title. The agent has, however, indicated that unconditional offers are being invited.

iii) In the event of the Council not being selected there is a risk that the new owner will terminate the Council’s leases. The owner could either leave the Rothwell Allotments Association in occupation and manage the Association directly, or the Council may have to terminate the Association’s occupational agreement.

4.8 Options

4.8.1 The options relating to the proposal to purchase the sites are detailed below:

i) The Council could choose not to purchase the sites. The sites are being advertised for sale subject to the Council’s leases. The leases, however, provide very little security as six months notice can be served by the landlord annually to expire on 2 February. A third party owner could serve notice on the Council to secure vacant possession and the Council would have to terminate its agreement with the Rothwell Allotments Association. Alternatively, a new owner could serve notice on the Council and leave the Association in occupation, but ultimately a new owner may seek vacant possession which can easily be achieved.

ii) The Council could attempt to purchase the sites. This will involve the submission of an offer by the closing date. There is no guarantee the offer will be accepted. The vendor states, however, on the offer form that there is no obligation to accept the highest offer.

iii) The Council could submit a conditional offer, conditional on confirmation of title and ground condition survey (detailed reference is made to ground condition surveys in the confidential appendix), but the agent has clearly indicated unconditional offers are invited and the offer form does not provide the opportunity to details conditions attached to the offer.

4.8.2 It is recommended that an offer is submitted for acquisition of the plots on an unconditional basis.

5 Conclusions

5.1 To secure the sites for allotment use for the long term benefit of the community it can be concluded that the Council should submit an offer for their acquisition by the closing date 12 noon 28 October 2011.

6 Recommendations

6.1 It is recommended the terms for the acquisition of the Reservoir and Victoria Allotments in Rothwell be approved and an offer submitted.

7 Background documents

7.1 There are none.