

Committee: Council
Date of Meeting: 10th October, 2019

Report Subject: Application to Acquire Land at Bedwellty Park

Portfolio Holder: Councillor Garth Collier – Executive Member Environment

Report Submitted by: Richard Crook, Corporate Director Regeneration and Community Services

Report Written by: Paul Miles/Louise Horner

Reporting Pathway								
Directorate Leadership Team	Corporate Leadership Team	Portfolio Holder / Chair	Audit Committee	Democratic Services Committee	Scrutiny Committee	Executive Committee	Council	Other (please state)
05.06.2019	12.06.2019	17.06.2019				17.07.2019		

1. Purpose of the Report

- 1.1 To obtain the approval of the Council (acting as Trustees of the Bedwellty House and Park Charity – Charity No. 511156) to the transfer of a parcel of land to Aneurin Bevan University Health Board (ABUHB), shown edged and coloured in red on the attached plan at Appendix 1, for use as part of the proposed Tredegar Health and Well Being Centre (HWBC).

2. Scope and Background

- 2.1 The Council's ownership of Bedwellty House and Park as Charitable Trustees is governed by a Conveyance to Tredegar Urban District Council being a predecessor authority of Blaenau Gwent Borough Council on 16/10/1910 and a Scheme of the Charity Commission made on 07/01/1981.
- 2.2 The land which ABUHB is seeking to acquire forms part of a larger holding all of which must be used as a public recreation and pleasure ground. As such it is termed 'designated land' i.e. designated for the above purposes.
- 2.3 The conveyance referred to above - contains a Covenant by the transferee (The Urban District Council of Tredegar) on its behalf and its successors "to keep the land for the purpose only of public walks and pleasure grounds for the use and benefit of the public."
- 2.4 Bedwellty Park and House is currently managed by Aneurin Leisure through an Alternative Service Delivery Model under both a Funding and Management Agreement and Licence. The licence is terminable at 28 days' notice.

- 2.5 As part of its plans to develop the new Tredegar Health and Wellbeing Centre ABUHB has applied to acquire the land detailed at 1.1 above.
- 2.6 In line with its design and build procurement ABUHB's scheme is evolving and it is suggesting that the land subject to the application could be used to develop a Wellbeing Active Landscape, Community Healthy Eating Allotments, Green Plaza, 'Wellness Corridor' connecting the HWBC to the wider community and green landscape of Bedwellty Park.
- 2.7 The Outline Business Case was approved by the ABUHB Board at its August meeting. It has now been submitted to Welsh Government for their scrutiny and consideration. The start on site is planned for Spring 2020 with completion of the facility due by the end of 2021.
- 2.8 ABUHB has submitted an outline planning application for demolition of Tredegar Health Centre, partial demolition of Tredegar General Hospital and erection of a new Health and Wellbeing Centre.
- 2.9 These proposals were presented to Tredegar County Borough Ward Members in late March and a copy of the presentation is attached at Appendix 2.

ABUHB has confirmed that it will retain the play facilities on the land it is proposing to acquire. This provision will be secured through requirements in the transfer documentation.

- 2.10 ABUHB held a public consultation event at Bedwellty House on Thursday 16th May, 2019, and a note of the feedback is attached at Appendix 3. A further "drop in" exhibition event is planned for October to share current progress with the community.

Consultation has taken place as follows:

2.11 **Tredegar Ward Members**

- Three Tredegar Ward Members replied to the consultation and were broadly supportive of the disposal of the area to ABUHB for the proposed Health and Well Being Centre.
- Tredegar Ward Members collectively wrote to the Managing Director on 1st April regarding progress with the scheme to ensure the Council was supporting ABUHB with its delivery in line with its financial timescales

2.12 **Tredegar Town Council**

The Town Council was consulted with on 11th April, 2019 and responded on 5th September expressing serious concerns in respect of information that indicated the sale of land to allow for the development of a car park for the Health Centre and sought clarity as to why the land is not being considered for a lease.

It was confirmed to the Town Council that the indicative plans from the Health Board indicated that the land is not needed for parking but as a green plaza, connecting the new Health Centre to the wider community and green landscape of Bedwellty Park. In addition ABUHB met with them on 19th June, to present their proposals, a copy of the presentation is attached at Appendix 4. As a result of the meeting ABUHB has agreed the next steps:

- Establish residents group (and frequent meetings)
- Draw together group of people to look at heritage
- Newsletter with some frequently asked questions and answers on
- Contact with the schools

2.13 **Aneurin Leisure**

The Trust has made the following comments to the proposal:-

- i) As Corporate Landlord BGCBC should take the lead in overseeing this project and ensure that the whole impacted area is made good at the end of the period.
- ii) The Trust accepts no responsibility for any repair/maintenance/personal injury liability costs.
- iii) The boundary wall and grounds should be assessed prior to the project start and BGCBC should reach agreement with the Contractor regarding how the wall will be left at the end of the project.
- iv) Appropriate barriers should be put in place by the contractor around the play area and signage provided to the northern entrance to the children's playground.
- v) That the trees are assessed re tree preservation orders.
- vi) Potential relocation of the small hard court as part of the agreement to sell.

2.14 **Friends of Bedwellty Park**

Consulted with the group on 7th June, 2019. Officers met with the Group on 19th June and explained the proposals. The Group is concerned at the loss of some of the land in the park to facilitate the development and was advised that formal consultation will follow in line with the Charity requirements, should the Council acting as Charitable Trustees be minded to agree to the sale.

Officers

- 2.15 **Planning:** Has made a number of technical comments around the allocation of the site in planning terms. The illustrative drawings also indicate that the proposed area of open space could include a green plaza, learning zone and community space. If this form of land use is included in the final design proposals, I am satisfied that a suitably designed scheme

could make a positive contribution to Bedwellty Park as a tourism and leisure attraction, and as such, I would raise no objection to the proposal in land use terms.

- 2.16 **Highways:** Confirms no objections from a highways perspective subject to submission of more detailed information/plans for technical approval.
- 2.17 **Retained Leisure Function:** No objections.
- 2.18 This report and appendix has been circulated to the Council's Corporate Asset Management Working Group Members, Regeneration and Community Services Leadership Team and Corporate Leadership Team with comments and suggestions incorporated in this report.
- 2.19 The Council will need to advertise and will need to take note of any representations under the Local Government Act 1972 S123 as a loss of public open space as well as advertising under the Charities Act 2011. It will also need to make an application to the Charity Commission seeking their consent to the sale.
- 2.20 An objection to the proposed sale has been received from a local resident on the basis that there are charitable objects which must be adhered to regarding access for public use and the land is used for walking on a daily basis as part of the path to the main part of the Park. Whilst the idea of a new surgery is welcomed they would not like to see the Park broken apart into little pieces.
- 2.21 The Council's Monitoring Officer has responded to the objector on the basis that the letter before claim is premature and confirming that the Council must comply with the relevant legal requirements and regulations relating to consents from the Charity Commission. She has also invited the objector to view the relevant plans submitted to the Planning Department which indicates that the area in question is to be developed as an enhancement to the Park.

3. **Options for Recommendation**

3.1 Two Options are suggested for consideration:

3.1.1 **Option 1:** The Council as Charitable Trustees agrees the principle of the disposal of the area of land either on a freehold or long leasehold basis to Aneurin Bevan University Health Board for inclusion within the development of its proposed Health and Well-Being Centre on terms to be agreed subject to:

- i) Successfully obtaining the consent of the Charity Commission to the disposal, which must be obtained prior to a transfer being effected
- ii) Considering implications (if any) concerning the restrictive

covenant contained in the 1910 transfer of land to Tredegar UDC.

- iii) Advertising the proposed transfer under s.123 of the Local Government Act 1972 and taking account of any representations made.
- iv) Advertising the disposal in line with the requirements of the Charities Act 2011 as detailed at 5.3.7 below.
- v) Taking the appropriate advice of an RICS qualified surveyor on the method and terms of the transfer.
- vi) As detailed in 5.1.1 below, any capital receipt being ring fenced for use by the Charity and not pooled for use within the Council's General Fund.

3.1.2 **Option 2** Do not agree to the transfer of the site with the area remaining with Blaenau Gwent County Borough Council.

3.1.3 **Option 1** is the preferred option.

4. **Evidence of how does this topic supports the achievement of the Corporate Plan / Statutory Responsibilities / Blaenau Gwent Well-being Plan**

4.1 The proposal – **Option 1** - will help to meet the following :-

Corporate Plan 2018 -2022

Social Services

- To improve accessibility, provision of information and advice to enable people to support their own well-being
- To work with people to make sure they have a say in achieving what matters to them
- To intervene early to prevent problems becoming greater
- To work with our partners including Aneurin Bevan Health Board and neighbouring authorities to deliver integrated responsive care and support
- To promote and facilitate new ways of delivering health and social care involving key partners and our communities
- To develop a partnership approach to refusing and alleviating the impacts of poverty
- Residents to be actively involved in creating more resilient communities supporting each other
- Residents to take more responsibility for managing their own health and well-being
- Residents to work with us to create a more stable environment for families

Education

- To improve pupil outcomes, progress and wellbeing, particularly for our more able and vulnerable learners
- Our parents and carers to continue to support their children and the Council, to help all our children and young people achieve their ambitions

Strong & Environmentally Smart Communities

- To improve the access to and quality of open spaces for the benefit of our communities, businesses and visitors

Local Well-being Plan 2018-2023

- The proposals will support the following aspects of the Local Well-being plan in that Blaenau Gwent wants everyone to
- Have the best start Best Start in Life
- Look after and protect it's environment
- Encourage people to make healthy lifestyle choices in the places that they live, learn, work and play

5. Implications Against Each Option

5.1 *Impact on Budget (short and long term impact)*

- 5.1.1 The Council as Charitable Trustees will receive a capital receipt for the sale of the land. The provisions of Charitable legislation, require any proceeds of sale to be re-invested within the Charity, i.e. Bedwellty House and Park, this would mean the Council would not be able to use any capital receipt for its General Fund and would mean a deviation from its normal policy of pooling of capital receipts.
- 5.1.2 The Transfer would relieve the Aneurin Leisure / the Charitable Trust of maintenance of this area of Bedwellty Park together with the associated costs.
- 5.1.3 The Council would receive its surveyor's fees and solicitors fees for dealing with the proposed transfer to ABUHB.
- 5.1.4 Given the specialist nature of the proposed uses, specialist external valuation and legal support is likely to be required to inform the further reports to Council and final decision making.
- 5.1.5 Should the Council acting as Trustees agree the disposal, the Council may be at risk of challenge. There would be a budget implication in defending any Court action for Judicial Review.

5.2 ***Risk including Mitigating Actions***

5.2.1 **Option 1** carries the risk of objections and challenges to the disposal of the land which would need to be further considered by the Council as Charitable Trustees and by the Charity Commissioners in seeking an Order to permit the sale which could possibly delay the implementation of the proposals of the new Tredegar Health and Well Being Centre.

5.2.2 **Option 2** would mean that the area would not be included within the emerging plans for the new Tredegar Health and Well Being Centre.

5.3 ***Legal***

5.3.1 ***Charity Issues***

5.3.2 The Council's Property Solicitor has considered the implications of the Council as Charitable Trustees and land ownership and has given detailed advice around any potential Charity disposal.

5.3.3 Should the Council acting as Trustees be minded to agree the principal of the sale then the regulations around Charitable Disposals will need to be followed, these are broadly set out at Option 1 and a more detailed report dealing with the outcome of application to the Charity Commission, advertising etc. will be presented to the Council as Charitable Trustees for its consideration.

5.3.4 ***Private Law Issues***

5.3.5 The 1910 Conveyance contains a covenant by the transferee (The Urban District Council of Tredegar) on its behalf and its successors "to keep the land for the purpose only of public walks and pleasure grounds for the use and benefit of the public."

5.3.6 Should the Council agree the principal of the sale, the validity of the Covenant will need to be considered and as mentioned at 5.3.5 above, a further report may need to be presented to Council considering the context of the sale of the land and its use by ABUHB.

5.4 ***Human Resources***

5.4.1 **Option 1** - There will be staff time in dealing with the application, Charity implications, negotiating terms and dealing with the agreements if approved. Should this option proceed, given the specialist nature of the proposed uses, specialist external valuation and legal support is likely to be required to inform the further reports to Council and final decision making.

5.4.2 **Option 2** – No impact - would not require any legal work or time.

6. **Supporting Evidence**

6.1 ***Performance Information and Data***

6.1.2 Supporting information in the form of consultation responses is set out at sections 2.6 – 2.16 above.

6.2 ***Expected outcome for the public***

6.2.1 Outcomes are aligned to the Council's Corporate Plan and Local Well-Being Plan as set out above.

6.3 ***Involvement (consultation, engagement, participation)***

6.3.1 The proposals to transfer the site will be advertised under s. 123 of the Local Government Act 1972 (Disposal of Open Spaces) and will be advertised under the Charities Act 2011, any representations around the proposed transfer will need to be considered by the Council as Charitable Trustees of Bedwellty House and Park

6.3.2 Tredegar Ward Members have received a presentation on the proposals from ABUHB.

6.3.3 ABUHB will be holding consultation events around their proposals.

6.3.4 Consultation will also take place as part of the planning application process.

6.4 ***Thinking for the Long term (forward planning)***

6.4.1 The disposal of the land will link in with the proposed HWBC and align to many of the objectives in the Council's Corporate Plan and Local Well-Being Plan.

6.5 ***Preventative focus***

6.5.1 The disposal of the land will link in with the proposed HWBC and align to many of the objectives in the Council's Corporate Plan and Local Well-Being Plan.

6.6 ***Collaboration / partnership working***

6.6.1 The disposal of the land will link in with the proposed HWBC and align to many of the objectives in the Council's Corporate Plan and Local Well-Being Plan.

6.7 ***Integration(across service areas)***

6.7.1 The area will cease to be the responsibility of the Council.

6.8 ***EqIA(screening and identifying if full impact assessment is needed)***

An EqlA is not considered necessary.

7.0 **Monitoring Arrangements**

7.1 Not applicable.

Background Documents /Electronic Links

- Appendix 1 – Plan showing area subject to application
- Appendix 2 - ABUHB Presentation to Tredegar Ward Members
- Appendix 3 – ABUHB Feedback from consultation event