



## Report of the Cabinet Member for Supporting Communities

Cabinet – 18 March 2021

### Community Asset Transfer – Swansea Community Farm

<b>Purpose:</b>	To obtain approval to grant Swansea Community Farm a new 35 year lease at a peppercorn rent which is less than best value.
<b>Policy Framework:</b>	Asset Management Plan 2017-2021 Community Asset Transfer Policy 2017 Creating an Active and Healthy Swansea
<b>Consultation:</b>	Legal, Finance, Housing, Property and Access to Services.
<b>Recommendation(s):</b>	It is recommended that:  1) A new 35 year lease at a peppercorn rent is granted to Swansea Community Farm and the Director of Place is to negotiate and settle the detailed terms of the proposed lease / appropriate agreement and to instruct the Chief Legal Officer to finalise the legal documentation.
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#### 1. Background

- 1.1 The land shown edged red on the attached plan (Appendix A) was let to Swansea Community Farm on the 9th of March 2000 for a term of 21 years at peppercorn rent. There was an obligation on the tenant to carry out specific works to turn the area into a Community Farm with associated buildings which has been done.

- 1.2 The area shown hatched red on the plan shown in Appendix A forms part of the Council's Housing Portfolio. The current lease is contracted out of the Landlord and Tenant Act 1954 part II (LTA 54 part II) meaning that there is no legal obligation on the Council to renew the current lease upon expiry. This was a condition of the lease because Housing wanted the ability to take back the land if it was required for Housing use. The rest of the site forms part of the Council's General Fund.
- 1.3 In recent years in order to remain operational Swansea Community Farm has received funding from the City and County of Swansea via The Swansea Compact Fund (2002-2010) and its successor the Swansea Change Fund (2010-2017). The Grant for 2018/19 (being called Swansea Compact) was £10,000 but had been as high as £30,000 pa.
- 1.4 Overall from the two funds the Farm has received approx. £410,000 (£409,155). The Funding contributed to core cost.
- 1.5 This funding ended in March 2019 and the funding source (Swansea Compact Fund) has ceased under the budget review process so there will no longer be a source of core funding for the farm to access from Swansea Council.
- 1.6 Therefore, if the Farm is to continue the ability to obtain external funding is essential and to enable this a lease of at least 25 years is required to offer funding bodies the necessary security.

## **2. Proposal**

- 2.1 The Farms current lease expires on the 8<sup>th</sup> of March 2021 and they have requested a new lease for as long a term as possible at a peppercorn rent to enable them to be eligible for as many funding opportunities as possible.
- 2.2 The Council's Housing Department does not consider the land necessary to reach current targets in the short / medium term but cannot guarantee that the land will not be required in the longer term.
- 2.3 As such, they are happy to allow the grant of a 35 year lease to try and strike a balance between predicting potential future housing needs (i.e. the need / ability to develop the land at the end of the term) and the Community Farms need for security to help ensure sustainability so far as is possible.
- 2.4 The Community Farm brings a number of well-being benefits to Swansea and their vision is to be an inspirational city farm, a valued and much-loved resource for the people of Swansea, serving as model for healthy living, environmental sustainability and community participation, empowerment and cohesion.
- 2.5 In the time they have occupied the land they have raised over £3.5m in grant funding to develop the site to include:

- Education, training and workshop rooms
- Community café and training kitchen
- Animal house
- Play area including mud kitchen
- Various habitats to encourage biodiversity
- An orchard with a range of heritage apple trees
- Beehives
- Allotments for food growing
- Animal enclosures
- Duck pond and wildlife pond

2.6 Swansea Community Farm is the only city farm in Wales and hosts a range of farm animals, allotments, wildlife area, bee hives and café. It exists to improve health and wellbeing, build skills alongside producing local food and caring for the natural environment, looked after by a team of volunteers for over 20 years. Visitors are able to explore the grounds, meet the animals and see first-hand how food is produced.

2.7 The Farm is able to evidence that contact with the outdoors improves physical health and mental wellbeing of the community by increasing activity, becoming connected, observing nature and learning and sharing new skills can contribute to a reduction in levels of mental ill-health.

2.8 Over the last 20 years the Council has given the Farm a number of grants to keep it going. The Council is no longer able to provide any grant assistance to the Farm but as it is supportive of the work carried out it can assist by granting a new 35 year lease at a peppercorn rent. As such it is recommended that the farm is granted this new lease (contracted out of the LTA 1954 Part II).

### **3. Property Implications**

3.1 The current lease restricts the use of the property to that of a Community Farm and the new lease will be granted on the same terms as existing. There may be some minor updating of some clauses required to allow the Farm to function as well as possible and these will be agreed under Delegated Authority.

3.2 The transfer of asset by a longer term lease will allow the Farm easier access to external funding sources. However should the Farm fail, the lease will ensure that the asset will return to the ownership of Swansea Council.

3.3 Cabinet consent is required to grant this lease using its Well-Being powers as it is considered to be at an undervalue and any disposal of Housing Land for any other purpose requires cabinet Consent and then approval from Welsh Government. To establish the amount of undervalue of the Housing Land a valuation of this area has been carried out by the Valuation Office Agency (VOA) (shown in Appendix B, a valuation from the VOA is

required for any further Welsh Government consent) and places a Market Value of £4,500 on this portion of the site.

- 3.4 However, considering the site as a whole the Market Rent is estimated to be around **£10,000 per annum**. Market Value is estimated to be in the region of **£104,500**. So, by leasing the site at a peppercorn rent the Council is in theory forgoing an income of £10,000 per annum and pushing the opportunity to receive a sum of £104,500 35 years into the future.

#### **4. Equality and Engagement Implications**

- 4.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

An EIA Screening Form has been completed with the agreed outcome that a full EIA report was not required. The reasons for this were:

This lease will help to improve and enhance the facility provision and enable further development opportunities for the local community. There will be no change in provision or opportunity than at present with long term opportunities for use anticipated to increase.

#### **5. Financial Implications**

- 5.1 Agreement of a lease to Swansea Community Farm would preclude the Council from the possibility of securing the future sale and capital receipts from this site, this is considered to be in the region of £104,500.
- 5.2 There are no current annual costs associated with the site, however by agreeing to a peppercorn lease which is less than market value then the Authority is forgoing an income in the region of £10,000 per annum.

#### **6. Legal Implications**

- 6.1 Section 123 of the Local Government Act 1972 and the Council's Land Transaction Procedure Rules set out in the constitution apply to this disposal. Under s123 LGA 1972 a local authority has the power to dispose of land held by it in any manner it wishes provided that the local authority achieves the best consideration that can reasonably be obtained except where the disposal is for a short tenancy (less than 7 years) or the local

authority has the consent of the Welsh Ministers. Under the Council's constitution the responsibility of determining in what manner the land will be disposed of in order to obtain best consideration lies with the Director of Place.

- 6.2 Under the General Disposal Consent (Wales) Order 2003 the Welsh Ministers have issued a general consent for disposals of land under s123 for less than best consideration. This allows a local authority to dispose of land for less than best consideration if it considers that the disposal will contribute to the promotion or improvement of the economic, social or environmental well-being of its area and the extent of the undervalue is no more than £2m.
- 6.2 Any lease documentation will contain all the relevant provisions to protect the Council's interest.
- 6.3 Section 32 of the Housing Act 1985 provides that the disposal of land by a local authority which is held for housing purposes (under Part II of the Housing Act 1985) requires the consent of the Welsh Ministers (except in certain specified circumstances).

**Background Papers:** None.

**Appendices:** Appendix A – Site Plan  
Appendix B – Valuation Office Agency Report.