

Gloucester City Council

Meeting:	Council (as Trustee of the Saintbridge Recreation Ground)	15 December 2020
Subject:	Disposal of the Saintbridge Recreation Ground to Gloucester City Homes	
Report Of:	Managing Director	
Wards Affected:	Matson and Robinswood Ward	
Key Decision:	No	Budget/Policy Framework: No
Contact Officer:	David Evans, City Growth & Delivery Manager	
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Appendices:	Appendix 1: Legal background to the Saintbridge site, including vesting in the Council as trustee	
	Appendix 2: Site plan and photographs of the Saintbridge Recreation Ground	
	Appendix 3: Site plan and photographs of the Baneberry Road open space	
	Appendix 4: Valuation of the Saintbridge Recreation Ground and Baneberry Road open space (Exempt Paragraph 3)	

1.0 Purpose of Report

- 1.1 For the Council, acting in its capacity as Corporate Trustee of the Saintbridge Recreation Ground, to consider a request made by Gloucester City Homes (GCH) to acquire the Saintbridge Recreation Ground, Reservoir Road, Gloucester, for the purpose of developing the land as part of the regeneration of the Matson estate (see plan of the site and images at Appendix 2).

2.0 Recommendations

- 2.1 It is recommended that the Trust explores the disposal of the Saintbridge Recreation Ground to Gloucester City Homes by:
1. considering a suitable alternative parcel of land that could be acquired to replace Saintbridge Recreation Ground to enable the purpose of the Trust to continue to be delivered;
 2. taking advice on the charity law implications of the disposal and acquisition proposals;
 3. seeking the views of the Charity Commission on the disposal and acquisition proposals;
 4. obtaining the views of the community in Matson and Robinswood, through a public consultation exercise to be overseen by Council officers.

3.0 Background and Key Issues

- 3.1 The Saintbridge Recreation Ground, Reservoir Road, Matson was originally conveyed to Upton St Leonards Parish Council in 1898 and was ultimately transferred to Gloucester City Council on local government reorganisation in 1972. The property was conveyed for the purpose of recreation land and is managed by the Council on behalf of the Trust as such. Unlike many other charities, no further Schemes appear to have been made by the Charity Commission to deal with the detail of the administration of the charity, nor has the Council created a Board of members to act on the Charity's behalf with regard to decision making. Decisions of the trustees are therefore decisions of the Council as a whole, the corporate body acting through its Members. **Appendix 1 advises Members of the legal status of the land and the Trust, the role of the Charity Commission, and of the Council's role in managing the property on behalf of the Trust.**
- 3.2 A plan and photographs of the Saintbridge Recreation Ground are included at Appendix 2.
- 3.3 Saintbridge Recreation Ground is held by the Council in trust for use as a Recreation Ground and is an unregistered charity. Should the Council receive an approach from GCH (or any other body) to acquire the Saintbridge Road Recreation Ground the Council in its capacity as corporate trustee would be required to reach a decision on the matter. In reaching this decision, it will need to consider if the proposal is in the best interests of the charity and how it will further the charity's objects. As the land is designated land, that is, held specifically for the purposes of the Charity rather than as land for investment or any other purpose, any disposal would likely require the consent of the Charity Commission.
- 3.4 The recreation ground, which extends to 1.93 hectares (4.8 acres) is currently grassed, open space and is identified as such in the City's Open Space Strategy, which was adopted by the Council in 2019. The site is surrounded on three sides by housing and on the fourth by the playing field of the Gloucester Academy. The Council carries out the maintenance of the recreation ground as part of its grounds maintenance schedule alongside other similar sites in the City. Whilst it was marked out a few years ago for a rugby pitch, the site is nowadays maintained on a minimal basis, and the most frequent use these days is for informal recreation, and notably dog walking.

4.0 Regeneration of the Matson Estate

- 4.1 The Council has worked in partnership with Gloucester City Homes (GCH) for several years in furtherance of GCH's plans to deliver a regeneration scheme for the Matson and Podsmead housing estates. Supporting the regeneration of both estates is one of the Council's Strategic Priorities in the current Council Plan.
- 4.2 Following consultation with the public during 2019, Supplementary Planning Documents were adopted by the Council for each of the estates, and GCH are making good progress towards submitting a planning application for a scheme in Podsmead, aiming for early 2021. The scheme for Matson is less advanced owing notably to the issues involved in acquiring the Saintbridge Recreation Ground.

5.0 Disposal and redevelopment of the Saintbridge Recreation Ground

- 5.1 Gloucester City Homes has identified the Saintbridge Recreation Ground as a critical site which needs to be developed during the first phase (years 1-5) of the Matson regeneration programme. The development of the site would create 26 new affordable homes and 73 homes for sale, which would serve two important purposes, firstly, to generate a capital receipt in the order of £1.8m, which GCH would draw upon to fund the development of the successive stages of the programme, and secondly, to enable the decant of residents from other sites in Matson that are earmarked to be replaced.
- 5.2 Redevelopment of the recreation ground for housing would require the benefit of planning permission for the change of use of the site. This statutory function carried out by the Council in its capacity as the Local Planning Authority would consider the national and local planning policy context, including the adopted Joint Core Strategy, the Draft City Plan and the Open Spaces Strategy, all of which seek to protect and enhance public open space and refer to the considerations to be taken into account in considering the disposal and redevelopment of open space. The net loss of open space in the ward would be a material factor for the authority in reaching its decision as the Local Planning Authority on a potential change of use.
- 5.3 Consulting with the Matson community and obtaining local views on the redevelopment would be essential to advise the trust, and the Council, and would also likely be required by the Charity Commission. The potential loss of the space and its redevelopment for housing use would inevitably arouse community interest. GCH has sought to keep the local community informed of progress about the wider regeneration plans but it will be necessary to capture the views of local residents and the wider community specifically on the plans proposed for the Saintbridge site in order to inform the Trust, the Council and the Charity Commission in carrying out their respective duties.
- 5.4 Officers of the Council commissioned independent valuation advice earlier this year in order to advise the Council and GCH on the financial viability of the regeneration schemes currently proposed, and the advice pointed towards a significant financial deficit in both schemes. Officers continue to liaise with GCH to try to secure external funding to enable both estate regeneration schemes to progress, including meeting regularly with Homes England.

6.0 Substitution of the trust status with other open space

- 6.1 GCH has carried out a review of land in the vicinity of Matson that could substitute for the Reservoir Road site and it has provisionally identified the Baneberry Road open space in Matson as a potential alternative. Owned by the Council, the Baneberry Road open space is around 150 metres from the Saintbridge Recreation Ground and is similarly used for local recreation and open space. The site extends to 2.3 hectares (5.6 acres) and is also maintained by the Council as part of its grounds maintenance schedule, and it is enhanced by a MUGA, a children's play area, rugby posts, and mature planting. It would be GCH's intention to acquire the Saintbridge site from the trust and simultaneously to ask the Council (in its own capacity as the freehold owner) to transfer the Baneberry Road site to the trust.

- 6.2 With regard to the Baneberry Road open space and any other property in Matson and Podsmead that is in the ownership of the Council and that is sought by GCH for the purpose of the regeneration scheme, the appropriate approvals would have to be secured in line with the Council's constitution.
- 6.3 An independent valuation of the Saintbridge Recreation Ground and the Baneberry Road open space have been secured by officers in recent weeks to inform this report. Appendix 4 presents the valuation report.

7.0 Environmental Implications

- 7.1 The Saintbridge Recreation Ground is currently held and managed by the Council on behalf of the Trust as public open space and used as recreational ground. It has been identified as a site for the European Regional Development Fund for Habitat improvement and the Environment Agency has aspirations to use the site for a SUDS scheme to manage water run off from Robinswood hill.
- 7.2 The redevelopment of the site would reduce the net availability of open and green space in Matson.

8.0 Alternative Options Considered

- 8.1 Gloucester City Homes has been encouraged by the Council to consider alternative ways to enable the Matson regeneration to proceed without the Saintbridge Recreation Ground, for instance by looking to acquire sites that are not in use as public open space for housing and decant of residents and whose development would not lead to a net loss in facilities. GCH has carried out those investigations and is unable to identify a suitable alternative. This research has been shared with Council officers.

9.0 Future Work and Conclusions

- 9.1 Discussions will continue with GCH to progress the regeneration programme for Matson. Should the Trustees accept the recommendations, the Council (as Trustee) will:
1. Explore the possibility of disposing of Saintbridge Recreation Ground to GCH and replacing it with an alternative site (which would be subject to the same trusts);
 2. Make an approach the Charity Commission on behalf of the Trustees seeking the Commission's views on the disposal of the site and/or substitute the property for an alternative property.
 3. Consider the most appropriate mechanism to capture the views of the Matson community on the redevelopment of the site.

10.0 Financial Implications

- 10.1 The Trustees need to ensure that they have appropriate agreements in place to recompense it for any costs incurred in relation to the actions it takes as it has no reserves of its own to meet any costs incurred.
- 10.2 If the recommendations are agreed these costs would include, but not exclusively, the following:

- Commissioning of a detailed report on the suitability of the replacement site to meet the purposes of the Trust and to identify any future issues with the site.
- Legal advice and support in relation to the various Deeds of Transfer, Sale and Purchase Agreements, and the myriad of documents required in relation to a property sale.
- Council officer or other support in relation to the approach to the Charity Commission which will entail:
 - A full Financial and Legal review of the proposals.
 - A review and report on the economic and social value that is ascribed to the current land and its replacement with consideration to the ultimate purposes of the current Trust deed.

10.3 The Trustees need to consider the recommendations in the light of the economic and social value that they offer with reference to the terms of the Trust. These are not easy to measure in purely financial terms but as noted above will need to be considered in the light of a potential approach to the Charity Commission for approval of the disposal. The Trustees will also need to ensure that conditions imposed by the Charity Commission are fully met should a disposal be approved; the valuation at Appendix 4 would inform this issue.

10.4 The Council has already incurred costs on behalf of the Trust in the preparation of this report, notably the commissioning of independent valuation advice on the Saintbridge site and the Baneberry open space.

10.5 Financial Services has been consulted in the preparation of this report.

11.0 Legal Implications

11.1 External specialist legal advice has been obtained in connection with this report.

Background Documents: None

Appendix 1

Legal background to the Saintbridge site, including vesting in the Council as trustee

The Saintbridge property was originally conveyed to Upton St Leonards Parish Council in 1898 as a result of enclosure of common land. The property was conveyed “unto and to the use of the said Parish Council ... as and for a Recreation Ground”. Eventually the charitable trust devolved upon the current City Council. Unlike many other charities, no further Schemes appear to have been made by the Charity Commission to deal with the detail of the administration of the charity, nor has the Council created a Board of Members to act on the Charity’s behalf with regard to decision making. Decisions of the trustees are therefore decisions of the Council as a whole, the corporate body acting through its Members.

Duties of the Council as trustee, including upon disposal of trust property

Trustees have an overriding duty to act in the best interests of the trust. The following are extracts from the Charity Commission’s guidance in respect of trustees’ duties:

Trustees must:

- ensure that the charity is carrying out the purposes for which it is set up (in this instance, recreation), and for no other purpose
- ensure that they comply with the charity’s governing document (in this case, the Conveyance to the Parish Council)
- do what the Trustees (and no-one else) decide will best enable the charity to carry out its purposes
- make balanced and adequately informed decisions, thinking about the long term as well as the short term
- avoid putting themselves in a position where their duty to the charity conflicts with personal interests or loyalty to another person or body
- not receive any benefit from the charity (this would apply to the Council corporately as well as to individual members) unless it is properly authorised and clearly in the charity’s interests
- act responsibly and exercise sound judgement, acting only in the interests of the charity
- make sure the charity’s assets are only used to support or carry out its purposes
- not take inappropriate risks with the charity’s assets
- take appropriate advice where necessary
- make decisions about the charity together. Decisions do not need to be unanimous as long as the majority of trustees agree

A record should be kept of how significant decisions are made, in case they are challenged in the future

Disposal of Land

Counsel has advised that, as the land is held by the Charity as “designated” land (i.e. held for the fundamental purposes of the Charity), and is also land subject to the Open Spaces Act 1906, the Charity Commission should be approached for consent to dispose of the land. As a condition of such consent, the Charity Commission may (and are likely to) require advertisement of the proposal, and consideration by the trustees of any objections. Offering alternative land may assist in persuading the Charity Commission to authorise the disposal of the Saintbridge land, but the Commission will always act in what it considers to be the

best interests of the charity (as should the Trustees). It is likely that the Charity Commission would consider the relative benefits/disadvantages of the two sites in the round, i.e. legal, physical and financial.

The Charity Commission may require an independent valuation of the Saintbridge land, and also any alternative land being offered in order to determine whether there is financial equality. In any event obtaining these valuations would be a prudent action for the trustees, to show that they have sought appropriate professional advice. If the alternative site were of less value than the Saintbridge site, then the Charity Commission might require a balancing figure to be paid.

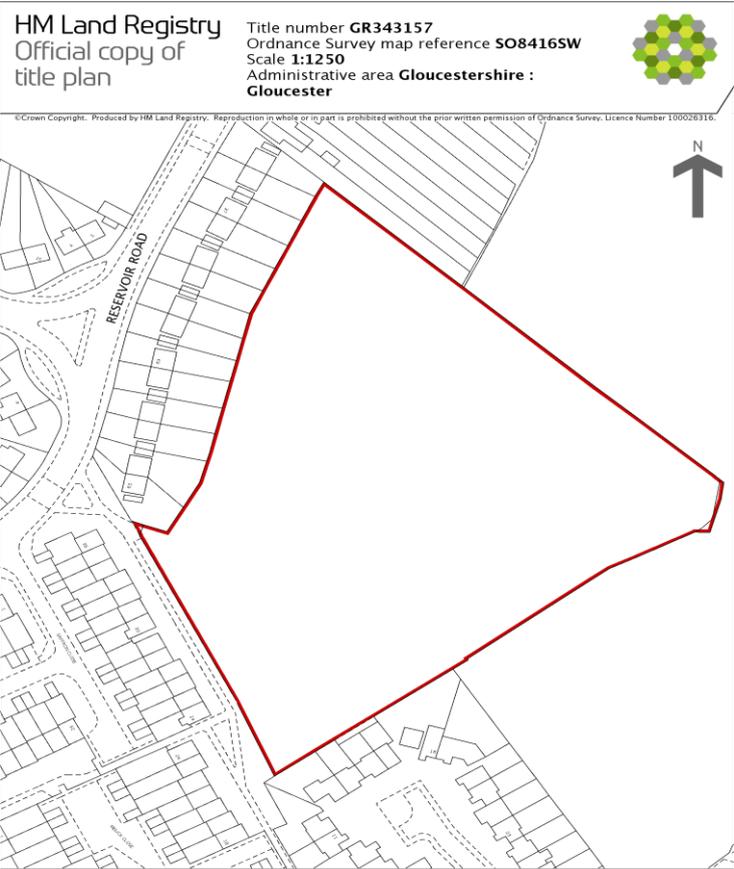
As mentioned above, the long-term interests of the charity have also to be considered: if there is the possibility of a future planning permission increasing the value of the land, the Charity Commission may require overage provisions to be in place, so that the charity can profit from any increase in value.

However, the Charity Commission has a wide discretion in the Orders it makes, and any conditions it imposes, including whether or not any sums are payable upon a disposal.

Ring-fencing of funds received by the Council as trustee

In the event that the Council receives any money for the disposal of the Saintbridge site, those funds are held by it as trustee and must be ring-fenced and only be applied for the benefit of the trust (i.e. recreation).

Appendix 2 Site plan and images of the Saintbridge Recreation Ground

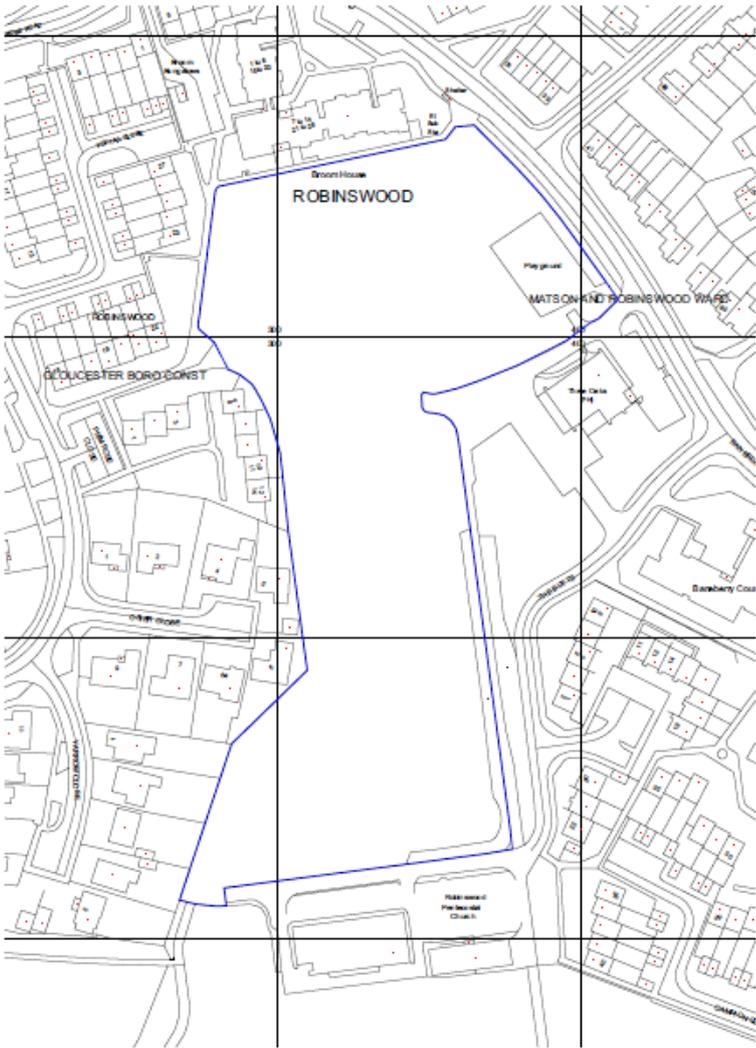




Appendix 3

Site plan and images of the Baneberry Road open space







Appendix 4

Report of the independent Valuer of the valuation of Saintbridge Recreation Ground and Baneberry Road Open space (Exempt Paragraph 3)

To follow