

EXECUTIVE

Monday, 12 December 2022

6.00 pm

**Committee Rooms 1 and 2,
City Hall, Beaumont Fee,
Lincoln, LN1 1DD**

Membership: Councillors Ric Metcalfe (Chair), Donald Nannestad (Vice-Chair),
Chris Burke, Sue Burke, Bob Bushell and Neil Murray

Officers attending: Angela Andrews, Democratic Services, Kate Ellis, Jaclyn Gibson,
Daren Turner, Simon Walters and Carolyn Wheeler

A G E N D A

SECTION A

Page(s)

1. Confirmation of Minutes - 21 November 2022 **3 - 14**
2. Declarations of Interest

Please note that, in accordance with the Members' Code of Conduct, when declaring interests members must disclose the existence and nature of the interest, and whether it is a disclosable pecuniary interest (DPI) or personal and/or pecuniary.

REMARKABLE PLACE

3. John Dawber Garden **15 - 20**

OUR PEOPLE AND RESOURCES

4. Recommendation from Committee- Performance Scrutiny Committee **21 - 22**
- 17 November 2022 - Operational Performance Report Quarter 2 - 2022/23
5. Exclusion of the Press and Public **23 - 24**

You are asked to resolve that the press and public be excluded from the meeting during the consideration of the following items because it is likely that if members of the press or public were present, there would be disclosure to them of 'exempt information'.

In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, notice is hereby given of items which will be considered in private, for which either 28 days' notice has been given or approval has been granted by the appropriate person specified in the Regulations. For further details please visit our website at <http://www.lincoln.gov.uk> or contact Democratic Services at City Hall, Beaumont Fee, Lincoln.

These items are being considered in private as they are likely to disclose exempt information, as defined in Schedule 12A of the Local Government Act 1972. No representations have been received in relation to the proposal to consider these items in private.

SECTION B

REMARKABLE PLACE

- | | | |
|--------------------------------------------|------------------------|----------------|
| 6. Management of Change Leisure/Recreation | [Exempt Para 1] | 25 - 48 |
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OUR PEOPLE AND RESOURCES

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| 7. Write Outs of Irrecoverable Non Domestic Rates, Sundry Debts, Former Tenant Arrears, Council Tax and Overpayment of Housing Benefit | [Exempt Para 2] | 49 - 62 |
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Present: Councillor Ric Metcalfe (*in the Chair*),
Councillor Donald Nannestad, Councillor Chris Burke,
Councillor Sue Burke, Councillor Bob Bushell and
Councillor Neil Murray

47. Confirmation of Minutes - 17 October 2022

RESOLVED that the minutes of the meeting held on 17 October 2022 be confirmed and signed by the Leader as a correct record.

48. Declarations of Interest

No declarations of interest were received.

49. Operational Performance Report Q2 - 2022/23

Purpose of the Report

To present an outturn summary of the Council's operational performance in quarter two of 2022/23.

Decision

That the achievements and challenges identified in the Quarter 2 2022/23 operational performance report be noted.

Alternative Options Considered and Rejected

None were considered.

Reasons for the Decision

Regular monitoring of the council's performance was a key component of the Local Performance Management Framework. This report covered the key strategic performance measures identified by members and CMT as of strategic importance.

The outturn summary report detailed performance against a total of 77 measures across the directorates Chief Executive's, Communities and Environment and Housing and Investment. In total 60 performance measures out of the 77 were monitored against targets, of which nineteen were below target; thirteen were within target boundaries; 25 had exceeded a higher target, and 3 measures were recorded as data not available for this quarter

The Directorate for Major Developments (DMD) did not monitor performance through strategic measures. Instead, performance was managed by the progress of the various projects DMD owned under the priorities "Driving Inclusive Economic Growth" and "Lets Address the Challenge of Climate Change." From quarter 3 2022/23, a progress update on these projects would be included within the quarterly performance report.

A further 17 measures were volumetric, and provided context to overall service delivery. Commentaries on each measure were detailed in the report.

When compared to the previous quarter there has been an increase of 3 quarterly measures performing at or above target within the second quarter. However, there had also been an increase of 4 quarterly measures performing below target during this latest quarter. When focusing on the performance direction of travel, there had been an increase of 11 quarterly measures showing an improving performance trend and a decrease of 5 quarterly measures showing a deteriorating performance trend. This indicated that performance overall was improving across the council based on trend, however, there remained a need for service areas to focus over the next quarter on those measures performing below target and with deteriorating performance.

It was noted that factors such as resource pressures, recruitment challenges and the cost of living crisis had impacted on performance in quarter 2 2022/23. Looking ahead the cost of living crisis could lead to a further increased demand for council services, as the more vulnerable in the city looked to the council for support, which could also further impact on performance. This was likely to be at a time when the council could see a reduction in both income for services and collection rates due to the increased financial pressures being faced by Lincoln's residents and businesses. Full details were provided within Appendix A to the report. A summary of the outturn was also provided at Appendix B to the report.

There continued to be less demand for face to face appointments at City Hall. However, there had been an increase in demand for telephone appointments with Customer Services and owing to recruitment and retention issues, the waiting times for telephone calls were higher than expected. It was highlighted that the turnover of staff related to employees moving to other areas of the Council following successful recruitment. The issue of increased waiting times for calls were being considered by officers. It was noted that there were automated messages for those waiting on a call and an offer of an automated call back. It was recognised that some of the calls were complex and involved vulnerable customers and it was queried whether staff received relevant training.

The appropriateness of the current performance targets were discussed, given the changing circumstances of the economy and council services. It was suggested this should be explored.

The report had been considered by the Performance Scrutiny Committee at its meeting on 17 November 2022.

50. Financial Performance-Quarterly Monitoring

Purpose of Report

To present the second quarter's performance (up to 30 September 2022) on the Council's General Fund, Housing Revenue Account, Housing Repairs Service and Capital Programmes, and to seek approval for changes to the capital programmes.

Decision

1. That the financial performance for the period 1 April 2022 to 30 September 2022 and the projected outturns for 2022/23 be noted.

2. That the underlying impact of the pressures and underspends identified in paragraphs 3.3 (and Appendix B), 4.3 (and Appendix D), and 5.2 (and Appendix F) of the officer's report be noted.
3. That the changes to the General Investment Programme and Housing Investment Programme as approved by the Chief Finance Officer and Lincoln Town Board as detailed in paragraphs 7.3, 7.4, 7.5 and 7.12 of the officer's report be noted.
4. That the changes to the Housing Investment Programme, as detailed in paragraph 7.9 of the officer's report, be approved.

Alternative Options Considered and Rejected

None.

Reason for Decision

The Council approved a balanced budget earlier in 2022, but much had changed since that point. Spiralling inflation, soaring energy prices and nationally agreed pay agreements were set to add significant cost pressures to the Council's budget. These were in the main part caused by national issues, beyond the Council's control, and were impacting all Councils. In addition, the current cost of living crisis had the potential to increase demand for the Council's services by those who relied on the safety net provided by local government. These unforeseen and unavoidable pressures had seriously impacted the assumptions that underpinned the MTFS. As a result of these pressures, the General Fund was currently forecasting a significant financial shortfall for 2022/23, with cost pressures also in the Housing Revenue Account and Housing Repairs Service.

The impact of these new financial pressures the Council was facing could not be underestimated and were not solely related to 2022/23. These inflationary increases would permanently increase the cost base of the Council and would have implications for the Medium-Term Financial Strategy and, in the absence of additional financial support from Central Government, would have implications for the range and level of services that the Council could continue to provide.

As a result, the Council was developing a range of mitigation actions, as part of a financial recovery programme, to ensure it retained a sustainable financial position in 2022/23 and in the medium-term. Alongside this the Council was continuing to lobby Central Government for funding to support councils through these inflationary pressures, and for long-term sustainable funding settlements for local government.

As in recent years, there would continue to be a need for strong budgetary control in this financial year to balance expenditure and income within budget.

Whilst there were a significant number of planning variables which were subject to unprecedented levels of uncertainty, based on the latest set of assumptions as at the end of the second quarter (up to 30th September 2022) the forecast financial position of the Council was detailed at paragraph 2.6 of the officer's report.

Updates were reported as follows:

General Fund Revenue Account

For 2022/23 the Council's net General Fund revenue budget was set at £8,907,490 including a planned contribution to balances of £60,700 (resulting in an estimated level of general balances at the year-end of £2,262,761 (after allowing for the 2021/22 outturn position).

The General Fund Summary was currently projecting a forecast overspend of £912,511 (Appendix A provided a forecast General Fund Summary), resulting in general balance at the year-end of 1,350,250. This would result in balances being below the prudent minimum of c£1.5-£2m. The use of earmarked reserves to maintain balances above the prudent minimum would be further considered in the third quarters financial performance report.

There were a number of forecast year-end variations in income and expenditure against the approved budget; as detailed at paragraphs 3.3- 3.4 of the report, with the main variances provided in Appendix B to the report.

In addition, other service costs and income were subject to fluctuation during the year as the cost-of-living crisis and external economic factors impacted both directly and indirectly on households and businesses. This could lead to: an increased demand for council services, as the more vulnerable in the City looked to the Council for support; and a reduction in both income for services and collection rates as household and business incomes became under pressure.

Despite the high level of uncertainty, it was clear that the General Fund faced a significant financial shortfall for 2022/23. In response to this a range of options and mitigations were currently being explored and developed. These focussed on both short-term measures to ensure a balanced budget could be maintained for 2022/23, as well as looking at more medium-term options to ensure the Council's ongoing financial sustainability. Given the timescales in delivering many of these mitigations it was inevitable that the General Fund would need to draw upon earmarked reserves and general balances in order to maintain a balanced position for 2022/23. The third quarter's financial performance report would set out proposals for which reserves would be called upon. It should be noted though, that the use of earmarked reserves brought financial risks in terms of the depletion of reserves and increased future exposure, etc, in the short term however the Council had little other options.

Alongside the development of these mitigations, the Council would continue to lobby the Government and call upon them to increase local government funding in recognition of the unprecedented and unavoidable pressures that local government was facing. The Council had already written to the Secretary of State setting out the significant financial strain it was facing. The Council would also support sector campaigns/lobbying regarding sustainable funding mechanisms and medium-term financial settlements for local government.

Earmarked Reserves

Details of the General Fund and HRA Earmarked Reserves were set out in paragraph 6 of the officer's report and Appendix G.

Towards Financial Sustainability Programme

The savings target included in the MTFs for 2022/23 was £1,050,000. Total savings secured and brought forward from last financial year were £716,410 leaving an in-year target of £333,590. Progress against this target, based on quarter 2 performance showed that secured savings totalled £65,190 for the General Fund and plans were in place to achieve the remaining balance.

A summary of the specific reviews that had contributed to this target were shown in Appendix K of the officer's report.

Housing Revenue Account

For 2022/23 the Council's Housing Revenue Account (HRA) net revenue budget was set at a £38,670 use of balances, resulting in an estimated level of general balances at the year-end of £1,063,872, after allowing for the 2021/22 outturn position.

The HRA was currently projecting a forecast overspend of £173,049 (Appendix C provided a forecast Housing Revenue Account Summary), which would decrease the General Balances to £890,823 at the end of 2022/23. This would result in balances being below the prudent minimum of circa £1m. The use of earmarked reserves to maintain balances around £1m, would be further considered in the third quarter's financial performance report.

There were a number of forecast year-end variations in income and expenditure against the approved budget as outlined at paragraph 4.3 of the report, with full details of the main variances provided in Appendix D of the report.

The HRA was currently forecasting an overspend at the end of the financial year, with significant variances in relation to repairs and maintenance costs. This was as a direct result of the issues that were currently being experienced in the Housing Repairs Services (HRS), as set out in Section 5 of the officer's report. This had led to a significant reduction in the level of repairs that were being undertaken and a consequent reduction in expenditure recharged to the HRA. This was in part offset by the large forecast deficit by HRS, as seen in the repatriation variance detailed within the officer's report, due to a reduction in rechargeable works. The HRA and HRS were working hard to address these issues, continuing to implement a range of previously agreed actions.

There was also a significant variance in relation to the level of depreciation charged to the HRA as a result of the latest revaluation exercise. This has been offset by a reduction in the amount of direct revenue financing charged to the account.

The other major variances were as a direct result of the inflationary pressures the Council was facing, which the HRA was also impacted by. These included an estimate of pay inflation, over and above the assumptions included within the MTFs, based on the national pay agreement, alongside an increase in inflation on utilities as a result of the escalating cost of gas and electricity supplies and contract price increases

At this stage no additional mitigations, other than those currently being implemented in response to the issues faced by the HRS were recommended. The use of earmarked reserves to maintain HRA balances in line with the prudent

minimum would be considered at quarter three. Strong budgetary control did though remain a focus in this financial year to ensure expenditure and income were balanced within budget.

Housing Repairs Service

For 2022/23 the Council's Housing Repairs Service net revenue budget was set at zero, reflecting its full cost recovery nature..

At quarter 2 HRS were forecasting a deficit of £573,908 in 2022/23 as detailed within the forecast HRS summary at Appendix E, with full details of the main variances provided in Appendix F of the report.

The main contributory factor for this deficit was still the ongoing recruitment and retention issues, which were being felt across the industry, this resulted in a reliance on the use of sub-contractors. The cost of subcontractors was more expensive than the HRS's own workforce, due to the ongoing impact of Covid19, the current inflationary crisis and a reduced pool of contractors from which to secure services. These additional costs were therefore not fully offset by the vacancy and material savings achieved by not carrying out the work internally. Furthermore, the increased subcontractor costs were not reflected in the service hourly rate and resulted in an under recovery of costs from the HRA, coupled with a reduction in jobs being carried out and the ability to recoup overhead costs.

The forecast deficit also included an estimate of pay inflation, over and above the assumptions included within the MTFs, based on the latest pay offer made by the National Employers (this was not yet agreed for Craftworkers), alongside an increase in the hourly rate recharge for the final quarter of the year to reflect this. The forecast also included increased inflation on utilities as a result of the escalating cost of gas and electricity supplies.

It should be noted that due to the interconnection of the HRS and HRA, the consequential costs in the HRA were also greatly reduced (as noted earlier in the report) and therefore financial picture for the Directorate was not unhealthy.

General Fund Investment Programme

The revised General Investment Programme for 2022/23 amounted to £32.342m following the quarter 1 report. At quarter 2 the programme has been reduced by £2.186m to £30.156m

There were no changes over the approved limit requiring Executive approval for the second quarter. However, there had been changes to projects arising from the Lincoln Town Deal which had been approved by the Town Deal Board, under a separate governance framework, and were now included within the capital programme, the Council being the Accountable Body for the grant funding, as detailed at paragraph 7.3 of the report.

The financial changes delegated to the Chief Finance Officer for approval for the second quarter 2022/2023 were detailed at paragraph 7.4 of the officer's report.

The overall spending on the General Investment Programme for the second quarter of 2022/23 was £2.2m, which was 8.8% of the 2022/23 active programme (excluding externally delivered schemes), as detailed further at Appendix I of the report.

Although this was a low percentage of expenditure at this stage of the financial year, further expenditure was expected in quarter 3 on Disabled Facilities Grants, Town's Deal Schemes, HAZ, and various capitalised maintenance schemes. There would however be a reprofile of the Western Growth Corridor Phase 1a budgets required, this would be subject to a separate report to the Executive in quarter 4.

Housing Investment Programme

The original Housing Investment Programme for 2022/23 in the MTFs 2022-27 amounted to £21.72m. This was increased to £23.17m following approvals and year end re-profiles as part of the 2021/22 outturn. This has been further adjusted to £23.25m during the first quarter of 2022/23 and then £22.13m in quarter 2.

The financial changes over the approved limit requiring Executive approval for the second quarter 2022/2023; were detailed at paragraphs 7.9-7.10 of the officer's report. All new projects were subject to Executive approval. There had been no new projects considered recently by the Executive during Quarter 2.

The financial changes delegated to the Chief Finance Officer for approval for the second quarter 2022/2023 were detailed at paragraph 7.11 of the officer's report.

The overall expenditure on the Housing Investment Programme for the second quarter of 22/23 was £3.835m, which was 17% of the 2022/23 revised programme. A further £0.46m had been spent as at the end of October 2022. This was detailed further at Appendix J.

Although this was a low percentage of expenditure at this stage of the financial year, works had been constrained by the availability of contractors and materials however new contracts were in place and spend was expected to increase in future periods.

51. Strategic Risk Register Quarterly Review

Purpose of Report

To provide a status report on the revised Strategic Risk Register as at the end of the second quarter 2022/23.

Decision

That the Council's strategic risks, as at the end of quarter 2 2022/23, be noted.

Alternative Options Considered and Rejected

None were considered. The Strategic Risk Register contained the key strategic risks to the delivery of the Council's medium and longer term priorities. A failure to monitor the action that was being taken to manage those risks would undermine the Council's governance arrangements.

Reasons for the Decision

Since reporting to Members in August, the Strategic Risk Register had been refreshed and updated by the Risk Owners, and Corporate Management Team

and had identified that there have been some positive movement in the Risk Register.

It contained twelve strategic risks as detailed within paragraph 3 of the officer's report, along with details of relevant mitigations.

The updated register was contained with Part B of this agenda, (Minute 56 referred), as it was considered to contain exempt information.

52. Treasury Management and Prudential Code Update Mid-Year Report - 30th September 2022

Purpose of Report

To report the Council's treasury management activity and the actual prudential indicators for the period 1 April 2022 to 30 September 2022, in accordance with the requirements of the Prudential Code.

Decision

That the Prudential and Local Indicators and the actual performance against the Treasury Management Strategy 2022/23 for the half-year ended 30 September 2022 be noted.

Alternative Options Considered and Rejected

None.

Reason for Decision

The prudential system for capital expenditure was well established. One of the requirements of the Prudential Code was to ensure adequate monitoring of the capital expenditure plans, prudential indicators (PIs) and treasury management response to these plans. The report fulfilled that requirement and included a review of compliance with Treasury and Prudential Limits and the Prudential Indicators at 30th September 2022.

It was noted that the Council held £64 million of investments at 30 September 2022, with the full investment profile set out at Appendix A of the report. Of this investment portfolio, 100% was held in low risk specified investments, the requirement for the year being a minimum of 25% of the portfolio to be specified investments. During the six months to 30 September on average 100% of the portfolio was held in low risk specified investments and an average of 0% of the portfolio was held in non-specified investments with other local authorities. It was anticipated that interest rates would reduce in the coming years.

This report highlighted the changes to the key prudential indicators, to enable an overview of the current status of the capital expenditure plans. It incorporated any new or revised schemes previously reported to members. Changes required to the residual prudential indicators and other related treasury management issues were also included.

53. Statement of Accounts 2021/22

Purpose of Report

To present for information the final Statement of Accounts for the financial year ended 31 March 2022, following substantial completion of the audit opinion.

Decision

That following scrutiny of the statement of accounts for the financial year ended on 31 March 2022, the Statement of Accounts be recommended to Council on 29 November 2022 for approval.

Alternative Options Considered and Rejected

None. The Council was required to publish its statement of accounts for the financial year 2021/22 with an audit opinion and certificate by no later than 30 September 2022.

Reasons for the Decision

The Statement of Accounts for 2021/22 provided a comprehensive picture of the Council's financial circumstances and had been compiled to demonstrate probity and stewardship of public funds.

The Statement of Accounts for 2021/22 were still subject to verification by External Audit. The audit of the accounts was being finalised by Mazars, who commenced the audit in July 2022. The majority of the audit work had now been completed by Mazars, however, should any material changes be necessary as a result of this final external work, these would be reported back to a meeting of the Audit Committee by the Chief Finance Officer.

The Council made the statement of accounts available for public inspection for the required ten working days, between 1 and 12 August 2022, during which time, the external auditor was available to answer questions, although none were received. During the completion of the external audit there no misstatements above the threshold level of £49,000 had been found.

The Council was also required to provide a documental annual review of the effectiveness of its governance arrangements (Annual Governance Statement), which sat alongside the Statement of Accounts; the overall level of assurance provided in 2021/22 was substantial (green) and was in line with the Council's code of corporate governance.

However, there was one significant issue that had been identified. This was in respect of IT Disaster Recovery, an issue which was included in the previous year's AGS. Although progress had been made over the last twelve months it was felt that this issue should remain on the list of significant issues, and progress against the actions would be regularly reported by management to the Audit Committee.

There were no new significant issues identified in 2021/22.

54. Re-Imagining Greyfriars Project

Purpose of Report

To update on progress made with the Greyfriars refurbishment project, to approve acceptance of a grant award of £1.95m from National Lottery Heritage Fund (NLHF) jointly with Heritage Lincolnshire and to approve the inclusion of the project within the General Investment Programme.

Decision

1. That the progress made in developing the Greyfriars project through to its delivery phase be noted.
2. That the acceptance of the NLHF grant award together with their standard and additional terms of grant be approved.
3. That the inclusion of a £2,638,220 capital estimate in the General Investment Programme, with associated funding as set out in paragraph 9.1 of the officer's report be approved.

Alternative Options Considered and Rejected

None.

Reasons for the Decision

Members had considered and supported different elements of the Greyfriars project previously, including the approval of a partnership arrangement with Heritage Lincolnshire and the Council's contribution of £200,000 match funding in October 2019, ahead of the first 'development' stage. Then more recently, the acquisition of land and rights from Lincolnshire County Council in May 2022. The report provided an update on progress relating to the second 'delivery' stage and the proposed undertaking of the approved scheme.

In late September, NLHF confirmed their support for the project. Formal notification was received 17th October 2022. The grant notification letter included the terms on which the grant was to be accepted. This included a requirement specific to local authority grantees, which was covered by this report.

The project also formed part of the Lincoln Town's Fund, with funding of £0.540m secured.

The Executive was reminded that Greyfriars had been placed on Historic England's 'Buildings At Risk' register due to its historic significance and deteriorating condition. Due to the Council's limited financial resources, it was therefore essential that external funding was secured to carry out a full refurbishment of the building.

Working in partnership with Heritage Lincolnshire, the Council had been successful in bids to NLHF to fund extensive refurbishment works. The grant was awarded in two parts; the first, smaller element was to undertake the development of a viable scheme. This work, undertaken 2019-2022, was coupled with robust strategies comprising a business plan, activities plan and

conservation management plan. In addition, planning consent, listed buildings consent and approval from Heritage England had all been secured.

The second, larger element of the grant, was the subject of the report and followed completion of the development stage and was awarded to fund the delivery stage i.e., the actual refurbishment works and related activities.

All officers involved in this project were congratulated on their hard work.

55. Exclusion of the Press and Public

RESOLVED that the press and public be excluded from the meeting during consideration of the following items of business because it was likely that if members of the public were present there would be a disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A to the Local Government Act 1972.

56. Strategic Risk Register Quarterly Review

Purpose of Report

To receive the revised Strategic Risk Register as at the end of Quarter 2 2022/23.

Decision

That the Council's strategic risks, as at the end of quarter 2 2022/23, be noted.

Alternative Options Considered and Rejected

None were considered. The Strategic Risk Register contained the key strategic risks to the delivery of the Council's medium and longer term priorities. A failure to monitor the action that was being taken to manage those risks would undermine the Council's governance arrangements.

Reasons for the Decision

Further to the Strategic Risk Register – Quarterly Review report, which appeared in Part A of this agenda, this report contained the detailed Register as attached at Appendix A.

57. Re-Imagining Greyfriars Project

Purpose of Report

As detailed in the exempt report to the Executive.

Decision

That the recommendations to the Executive, as set out in the exempt report, be approved.

Alternative Options Considered and Rejected

As detailed in the exempt report to the Executive.

Reasons for the Decision

As detailed in the exempt report to the Executive.

SUBJECT: JOHN DAWBER GARDEN

DIRECTORATE: COMMUNITIES AND ENVIRONMENT

REPORT AUTHOR: STEVE BIRD ASSISTANT DIRECTOR, COMMUNITIES AND STREET SCENE

1. Purpose of Report

- 1.1 To consider a request to transfer, under a lease, the care and maintenance of the John Dawber Gardens from the City Council to a dedicated trust.

2. Executive Summary

- 2.1 In 1986 the City Council formerly opened the John Dawber gardens, within the Lawn complex.
- 2.2 Although on City Council owned land, the funding for the project was a collaborative endeavour between the City Council and the John Dawber Trust.
- 2.3 The project celebrated both the City's twining links and the county's connection with the great plant hunter and botanist, Sir Joseph Banks.
- 2.4 Originally the gardens were associated with an adjacent heated conservatory, but due to the prolonged period of austerity, and associated Council funding restrictions, the conservatory has had to be removed. Funding for the garden has remained very basic. Consequently, the planting and infrastructure is 36 years old, and is now in need of a total refurbishment throughout.
- 2.5 In recognition that the Council is now entering yet another challenging period for funding, it has to be stated that there is no prospect of internal funding being available in the short/medium term.

3. Background

- 3.1 The John Dawber Garden site has been an important part of Lincoln's green space assets for many years now. Sited at the Lawn, it has been popular with local people and visitors to the city alike.
- 3.2 The site was designed to note the city's formal international links, but principally to commemorate the work of Sir Joseph Banks. Sir Joseph Banks was a Lincolnshire born traveling companion to Captain Cook on his famous voyage to Australia and New Zealand, founding father of Kew Gardens, and president of the Royal Society for over 40 years.

- 3.3 The John Dawber Garden consists of a series of gardens within a garden, each relating to a different area of twinning for the city, relevant at the time of opening. Within the gardens the planting had a clear emphasis on those plants first recorded and named by Sir Joseph Banks, and which were considered to be suitably hardy.
- 3.4 Over time the gardens have developed, and many plants have now gone past maturity, as all planting will eventually. At this stage it would be usual to remove selected plants and to replant with young plants to retain the vigour and vibrancy of the site. It is also an opportunity to play with design, but unfortunately no budget is available for this work.
- 3.5 The current grounds maintenance contract is funded only for very basic maintenance work, and does not provide for refurbishment of planted areas. There is therefore no opportunity to undertake any of this work at this time, or in the foreseeable future.
- 3.6 In addition, numerous aspects of the built infrastructure, such as the pond and rose frames, have deteriorated significantly, and these now require repair/replacement.
- 3.7 Repairs/replacements to the built infrastructure would fall to the Council's corporate repairs and maintenance budget. As this budget is only funded adequately to address the highest priority health and safety work now, this work cannot be funded, meaning ongoing deterioration of the site's infrastructure is inevitable.
- 3.8 The net effect of the two scenarios outlined above is that, despite best efforts by officers, and more recently a volunteer group, the condition of the site can only best be described as in a state of managed decline, with no prospects for short/medium term improvement.

4. The Proposal.

- 4.1 The Council has recently received a request for a lease for the site. The request has come from a newly formed group dedicated to the care and maintenance of the site.
- 4.2 The group, who have applied for formal charitable trust status, comprises a number of interested parties including local residents, volunteers on the site previously, some with experience of charitable trusts such as Liquorice Park and the John Dawber Trust.
- 4.3 The newly formed Dawber Gardens Community Trust have submitted to the council an outline of how they would like to proceed. Suffice to say it proposes to rejuvenate the gardens by a combination of volunteer works, investment from businesses and groups of businesses within the city, and by seeking external funding.

5. Strategic Priorities

- 5.1 Let's enhance our remarkable place.

This approach offers the potential for adoption of an important open space by a well-intentioned community group. The group sports the necessary experience and

skills to manage the site, along with realistic potential for investment so as to drive improvements at this site that the Council cannot, at this juncture, afford to fund.

5.2 Let's address the challenge of climate change

Although a small site, a rejuvenated garden dedicated around Sir Joseph Banks' work offers the opportunity to promote and explain the importance of plants in our environment, in the widest possible sense.

6. Organisational Impacts

6.1 Finance

Last year the Council spent £6,921 on grounds maintenance works. As the group may still require some support, it is proposed that this sum remains in the budget, with any underspend being used to offset increasing tree maintenance costs in the city.

Meanwhile, corporate repair and maintenance spend on the site was £7,000. Due to budget pressures, it is proposed that the transfer of responsibility for this site be treated as for grounds maintenance, as a simple reduction in budget pressure, with the funds retained within area.

Although there is no mention in the proposal of any rent to be paid under the requested agreement/lease, it is assumed that any such arrangement will be for a nominal rent.

6.2 Legal Implications

In order to enter into any kind of leasehold arrangement with the Trust the Council must ensure that the Trust becomes formally constituted as a corporate/legal entity. If no such legal entity is in place this would require individual contractual arrangements with each 'trustee' which is not advocated..

If the Council were to grant a lease this would constitute a disposal and, by virtue of Section 123 (2A) Local Government Act 1972, a council may not dispose of any land consisting or forming part of an open space unless before disposing of the land they

- (i) give notice of the proposed disposal specifying the land in question and advertising this for two consecutive weeks; and
- (ii) consider any objections received to the proposed disposal.

Alternatively, the Council could grant a Management Agreement incorporating licence for the Trust to use, manage and maintain the property pursuant to, and in fulfilment of, the terms of the Management Agreement. This would not be a disposal as would not grant to the Trust a legal interest in the property.

6.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

This policy does not adversely impact on equality, diversity, or human rights issues.

6.4 Human Resources

N/A

6.5 Land, Property and Accommodation

The details of the proposal from the Trust do not refer to a specific arrangement, e.g., they refer to a lease/agreement and do not provide any further detail as to the type or length of any agreement, nor do they mention any proposed rental payment. However, they since verbally stated that their preference is for a lease, although not what the duration of any lease would be. A lease generally sets-out a framework, matters and responsibilities in a landlord/tenant relationship, but usually allows the tenant wide autonomy in its quality standards, hours of operation and general modus operandi etc. If a lease is intended, and if the Council wishes to retain close control over the Trust's work, it is suggested that the Trust be required to produce an operational management and refurbishment/maintenance plan for the Garden for agreement, up-front, by Community Services. Such Plan to be reviewed and agreed by the service area at regular intervals throughout the lease and, unless otherwise agreed by the Council from time to time, the Trust to work to that agreed Plan as part of its lease obligations.

A lease of open space (regardless of the length of lease) is a disposal that must go through the open space disposal notice procedure (see legal implications).

Any disposal by way of lease for more than 7 years must be at best rental consideration unless Secretary of State's consent is obtained, however, the Local Government Act: General Disposal Consent (England) 2003 gives consent for disposal at an undervalue in circumstances where the local authority considers that the purpose for which the property is to be disposed is likely to contribute to the achievement of any one or more of the promotion or improvement of economic, social or environmental well-being in its area. In deciding this, it is expected that authorities will also have regard to their community strategy/strategic plans and act reasonably and prudently to fulfil their general fiduciary duty in a way that is accountable to local people.

It is suggested that the term of the lease be 5 years with the potential to review. This enables both parties the ability to ensure that the arrangement is working

without tying it into a longer term, with any resulting liabilities that may arise from that.

6.6 Significant Community Impact

N/A

6.7 Corporate Health and Safety Implications

The Dawber Gardens Community Trust would assume all responsibility for the site, including taking out all appropriate insurances for public access, and volunteer working.

7. Risk Implications

7.1 (i) Options Explored

1. Do not support the long lease request.
2. Support the long lease request (preferred option).
3. Consider an alternative arrangement of a management agreement.

A Management Agreement would not constitute a transferable interest in the property in the hands of the Trust or offer the Trust any security of tenure beyond a reasonable notice period for termination. In the absence of a lease (typically requiring 25 years), the Trust may be unable to raise finance or accept grant funding if needing to be secured against a longer term interest in the property.

Also, the Trust would have less autonomy in using, managing and maintaining the property as these would be exercisable only for the purpose and fulfilment of the terms of the Management Agreement. Whilst significant contractual responsibilities for management, maintenance etc. could be attributed to the Trust under a Management Agreement, similar to those between landlord and tenant under a lease, the Council as landowner would essentially retain contingent potential liabilities including upon default by the Trust - although suitable insurance/indemnities from the Trust may mitigate any risks. This would be a suitable option if the Council wants close control over the Trust's management and maintenance, quality standards, hours of operation and general modus operandi.

As a Management Agreement persists by will of the parties, it is more conducive to an ongoing collaborative approach and expectation that the Council may be actively consulted on any intended plans/works.

A management agreement would not be considered a disposal under the Section 123 of the Local Government Act and as such would not require the Council to advertise of disposal of open space. Neither would there be any requirement to ensure best rental consideration.

7.2 (ii) Key Risks Associated with the Preferred Approach

The group do not obtain charitable status, and do not generate the volunteer and financial support to which they aspire.

The result would be either a request to surrender the lease and hand back responsibility to the Council, or the Council would enforce this subject to the terms of the lease. By that point, if the group had failed, the site could be in a worse condition than at hand over necessitating greater investment to reverse its fortunes.

8. Recommendation

8.1 That the Council agree a 5 year lease in principle as the basis of terms with the Dawber Gardens Community Trust, subject to the findings of the advertisement, delegating the decision to proceed, and final format of any legal agreement to the DCE, the CFO and the CS.

Is this a key decision?	No
Do the exempt information categories apply?	No
Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?	No
How many appendices does the report contain?	None
List of Background Papers:	None

Lead Officer: Steve Bird, ADCSS
Telephone (01522) 873421

**SUBJECT: RECOMMENDATION FROM COMMITTEE – PERFORMANCE
SCRUTINY COMMITTEE - 17 NOVEMBER 2022 –
OPERATIONAL PERFORMANCE REPORT-QUARTER 2
2022/23**

DIRECTORATE: CHIEF EXECUTIVE & TOWN CLERK

REPORT AUTHOR: ALI HEWSON, SENIOR DEMOCRATIC SERVICES OFFICER

1. Matter for Executive

- 1.1 Executive is asked moving forward to report back to Performance Scrutiny Committee future cost saving decisions taken which impact on performance in terms of how service level provision is affected.

**List of Background Papers: Minute of Performance Scrutiny Committee
17 November 2022**

Lead Officer: Ali Hewson – Telephone 873370

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SUBJECT:	EXCLUSION OF THE PRESS AND PUBLIC
DIRECTORATE:	CHIEF EXECUTIVE & TOWN CLERK
REPORT AUTHOR:	CAROLYN WHEATER, MONITORING OFFICER

1. Purpose of Report

1.1 To advise members that any agenda items following this report are considered to contain exempt or confidential information for the reasons specified on the front page of the agenda for this meeting.

2. Recommendation

2.1 It is recommended that the press and public be excluded from the meeting at this point as it is likely that if members of the press or public were present there would be disclosure to them of exempt or confidential information.

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