

## Rother District Council

**Report to:** Cabinet

**Date:** 17 July 2023

**Title:** Freehold Transfer of Rye Allotments to Rye Town Council

**Report of:** Ben Hook, Director – Place and Climate Change

**Cabinet Member:** Councillor Bayliss

**Ward(s):** Rye and Winchelsea

**Purpose of Report:** To seek approval from Cabinet to complete the freehold transfer of the two allotment sites in Rye to Rye Town Council

**Decision Type:** Non-Key

### Officer

**Recommendation(s):** It be **RESOLVED:** That:

- 1) the freehold of the two allotment sites at South Undercliff and Love Lane, Rye be transferred to Rye Town Council for the sum of £1 on the condition that they be formally designated as statutory allotments; and
- 2) delegated authority be granted to the Interim Chief Executive and Portfolio Holder for Regeneration and Economic Development to agree the final detailed terms of the freehold transfer.

### Reasons for

**Recommendations:** To comply with the Local Government Act of 1972 concerning allotments.

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## Introduction

1. The allotments at Love Lane and South Undercliff, Rye are currently let to the Rye Amenity Community Interest Company (CIC) under a single lease covering both sites, for a term of 25 years from 1 December 2013. The lease includes a provision for either party to break the lease at the end of the 10<sup>th</sup> year (30 November 2023) upon serving one year's notice, i.e. by 30 November 2022.
2. Members approved the service of a break notice in October 2022 in order to facilitate officers exploring further the passing of the allotments to RTC (Minute CB22/34 refers); this was put into effect and therefore the current lease will come to an end on 30 November 2023.
3. The two allotment sites at South Undercliff and Love Lane, Rye have been owned by Rother District Council (RDC) since its establishment in 1974. Maps showing the location and extent of the allotments are attached at Appendix A.
4. Members may be aware there is a history of discussion between the Council

and Rye Town Council (RTC) about the status of the allotments. However, the Local Government Act 1972 states that in an area where there is a Parish Council, all functions under the Allotments Acts 1908 to 1950, which include the provision of allotments, shall only be exercisable by the Parish Council for the area. As such, in an area such as Rye, RTC is the relevant authority to provide allotments falling within the Allotments Act and not the District Council. RDC has historically maintained that the allotments are non-statutory but there are strong grounds to offer a freehold transfer on the basis that the allotments will become formally designated as statutory allotments.

5. Cabinet previously received a report on this subject in 2012 when the option for a 99-year lease for each of the sites was discussed and approved. RTC subsequently refused the offer of a 99-year lease, maintaining their wish to achieve a transfer of the freehold on the basis that they consider the allotments to be statutory.

### **Details of the proposal**

6. To transfer the freehold of the Allotments at Love Lane and South Undercliff Rye to RTC for the sum of £1; under the provision of the Local Government Act 1972.
7. The Council's Legal team has recommended, subject to the freehold transfer being approved, the inclusion of conditions including requiring RTC to designate both sites as statutory allotments. This designation will protect the sites from future development and ensure that they are maintained as allotments for the benefit of the local community. On that basis it is considered that a transfer for the sum of £1 will satisfy the 'best consideration' requirements for the disposal of land set out in the Local Government Act 1972. For reference, the allotment sites are independently valued annually as part of the Council's annual asset revaluation. They are currently valued as tenanted amenity land, not as statutory allotments. As at, 31 March 2023, the valuations are £175,500 for Love Lane and £120,000 for South Undercliff. Both sites are considered to have no development potential.

### **Conclusion**

8. There are strong grounds that the allotments are statutory and should therefore be operated by RTC as per the Local Government Act 1972. It is recommended therefore that Cabinet delegate authority to the Interim Chief Executive, in consultation with the Portfolio Holder for Regeneration and Economic Development to facilitate the freehold transfer of the Allotments at Love Lane and South Undercliff to RTC at the earliest opportunity and to attach such conditions that the Allotments must only be used as Allotments for the benefit of the community and that they are designated as Statutory Allotments by RTC.

### **Financial Implications**

9. The allotment is let at a peppercorn rent and both parties will pay their own costs. As at, 31 March 2023, the valuations are £175,500 for Love Lane and £120,000 for South Undercliff. Both sites are considered to have no development potential. The Council's register of assets will need to be amended accordingly.

## Legal Implications

10. The Local Government Act 1972 states that in an area where there is a Parish Council, provision of allotments lies solely with the Parish Council. Therefore, RTC is the relevant authority to provide Allotments, which lends further support to the proposal in this report.
11. The Council has met its obligations under Section 123 of the Local Government Act 1972 by appointing a Property Specialist to establish the estimated level of any Under Value although this is not considered necessary.
12. The Council's legal team will be instructed to ensure that the freehold transfer is executed correctly and with the proper conditions.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	No
Crime and Disorder	No	Consultation	No
Environmental	No	Access to Information	No
Risk Management	No	Exempt from publication	No

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Appendices:	A – Site Plans
Relevant Previous Minutes:	CB22/34
Background Papers:	N/A.
Reference Documents:	N/A