



**To:** Scrutiny Co-ordination Committee February 4<sup>th</sup> 2009

**Subject:** Scrutiny Call-in of Cabinet Member meeting Thursday 15<sup>th</sup> January 2009 Decision regarding Allesley Park Walled Garden, Coventry.

**Purpose of the Note:** To provide information in response to the Call-In of the above decision.

I presented the following information about the legal implications of the Council granting a leasehold interest of the Allesley Walled Garden at the Cabinet Member meeting on Thursday 15<sup>th</sup> January 2009:-

1. Historically the land was given on trust to the Council by the Iliffe family. There is the possibility that the consent of the Charity Commission may be required before the Council would be able to grant a leasehold interest in the land. There would be potential officer's time and costs involved in investigating this and if necessary obtaining consent.
2. The subject land is open space and to enable the Council to grant a leasehold interest (which requires exclusive possession for the prospective tenant) the Council would be required to advertise its intention in accordance with legislation (section 123 (2) (a) of the Local Government Act 1972 – again officer's time would be incurred and also advertising costs.
3. The crux of the problems lies with covenants affecting the Council's freehold title. The title prevents the Council granting long leases – anything exceeding 7 years. In order for the Council to grant such a lease the Council would be required to consider who has the benefit of the restrictive covenants and endeavour to negotiate a release of the covenant. I explained that this has possible financial implications for the Council – the person having the benefit of the restrictive covenants could seek a financial payment in return for the release.
4. The land is also subject to exceptions and reservations and any lease would be granted subject to these – which includes a public right of access.
5. I explained that careful regard would have to be given to the covenants in any lease granted e.g repair and maintenance obligations and permitted user. This would be a matter for negotiation between the respective parties.

Julie Sprayson  
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