

15 January 2009

Report to

Cabinet Member (Culture, Leisure and Libraries)

Title

Findings and Recommendations of the Scrutiny Board 4 Review of the Allesley Park Walled Garden

Report of:

Scrutiny Board 4

1 Purpose of the Report

To inform the Cabinet Member (Culture, Leisure and Libraries) of the findings and recommendations of this review.

2 Recommendations

The Cabinet Member (Culture, Leisure and Libraries) is recommended to:

- 2.1 consider the options set out in Appendix 2, Paragraph 4 (page 25 of this document) and to decide which of them to adopt.
- 2.2 adopt the proposed recommendations set out in Appendix 2, Paragraph 5 (page 25 of this document).

3 Information/Background

- 3.1 In July this year, Scrutiny Board 4 decided to carry out a review of the Allesley Park Walled Garden project.
- 3.2 At its meeting on 10 December, 2008, the Board considered a Progress Report and Baseline Document (attached as Appendix 1), which set out the chronology of the project, key issues in the debate about the project, the position of the various parties involved and the research findings to date.
- 3.3 The Board also considered a briefing note (attached as Appendix 2) asking it to decide whether it now had sufficient information to enable it to make recommendations on this issue to the Cabinet Member (Culture, Leisure and Libraries) and, if so, to decide what those might be. Options for recommendations were set out in Paragraph 4 of the briefing note.
- 3.4 The briefing note also set out (in Paragraph 5) proposed recommendations relating to future procedures.
- 3.5 Having considered both of these documents, the Board decided to make the recommendations indicated in paragraph 2.1 above.

4 Other specific implications

	Implications (See below)	No Implications
Children and Young People		✓
Climate Change & Sustainable Development		✓
Comparable Benchmark Data		✓
Corporate Parenting		✓
Coventry Sustainable Community Strategy		✓
Crime and Disorder		✓
Equal Opportunities		✓
Finance		✓
Health and Safety		✓
Human Resources		✓
Human Rights Act		✓
Impact on Partner Organisations		✓
Information and Communications Technology		✓
Legal Implications		✓
Neighbourhood Management		✓
Property Implications		✓
Race Equality Scheme		✓
Risk Management		✓
Trade Union Consultation		✓
Value for Money		✓
Voluntary Sector – The Coventry Compact		✓

	Yes	No
Key Decision		✓
Scrutiny Consideration (if yes, which Scrutiny meeting and date)	N/A	
Council Consideration (if yes, date of Council meeting)		✓

List of background papers

Proper officer: Chief Executive

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Other contributors: nil

Papers open to Public Inspection:-

Description	Location
Allesley Park Walled Garden - Progress Report and Baseline Document	Room 79, Council House
Briefing note on "Next Steps"	Room 79, Council House



Coventry City Council

Review of Allesley Park Walled Garden: Progress Report and Baseline Document

Scrutiny Board 4

December 2008

Performance and Scrutiny Team
Coventry City Council
Council House
Coventry CV1 5RR
<http://www.coventry.gov.uk/scrutiny>

INTRODUCTION

Scrutiny Board 4 has agreed to undertake a review of Allesley Park Walled Garden as part of its 2008-09 work plan.

The terms of reference for the review are:

- To publish a comprehensive summary of the current situation with regards to Allesley Park Walled Garden
- To undertake public consultation to ascertain with confidence public views about the walled garden and its future
- To make viable recommendations to Cabinet on the future of the Walled Garden

The review timetable has slipped. This is due to the pressure of other work and the complexity of the subject matter (the review has involved examination of literally hundreds of documents, several meetings and communication with a dozen stakeholders). Dependent on the Board's views, more work may be needed. The new target deadline is March 2009.

This baseline document gives the comprehensive summary of the situation to date in relation to the Allesley Park Walled Garden. In the light of this, the Board will need to decide how to progress the review

A COMPREHENSIVE SUMMARY OF THE CURRENT SITUATION WITH REGARDS TO ALLESLEY PARK WALLED GARDEN

This comprises the following:

- A. Background
- B. Short chronology and commentary
- C. Key issues in the debate about the future of Allesley Park Walled Garden
- D. Coventry City Council's position on Allesley Park Walled Garden
- E. Allesley Park Walled Garden Group's position on Allesley Park Walled Garden
- F. Allesley Park Residents Association's position on Allesley Park Walled Garden
- G. Findings arising from the documentary record and consideration of Allesley Park Walled Garden to date

A. Background

Allesley Park Walled Garden is part of Allesley Park, probably dating back to the 1780s. It is Council owned land, given to the city by the Iliffe family in the 20th century. Currently, the Allesley Park Walled Garden Group (APWGG) cultivates a quarter of the walled garden as a kitchen garden, growing vegetables, fruit, herbs, and ornamental plants. Responsibility for maintenance of the rest of the walled garden rests with the City Council. APWGG undertakes its activities on a short-term rolling licence from the City Council, granted in 2000, and its gardeners are volunteers (though APWGG is a private company limited by guarantee). APWGG has developed a number of community engagement activities, and there is a monthly market through the summer. In line with earlier proposals, APWGG wants to convert the entire walled garden to a kitchen garden. It would seek to expand its outreach and educational activities, employ permanent staff, and build a visitor centre and storage facility in the walled garden. To do so it would require considerable funding, from the Lottery for example, and either a long-term lease from the City Council, or at least a commitment that one would be forthcoming if financial support were secured.

The City Council has not granted such a lease and at the present time is not minded to do so. In correspondence with APWGG dating from 2005, the Council noted the need for APWGG to demonstrate suitably robust and appropriate governance and financing arrangements, and sufficient numbers of volunteers. The Council also expressed concern at the potential loss of maturing trees (particularly a Wellingtonia redwood tree which Officers consider to be of high enough amenity and quality to justify the serving of a Tree Preservation Order)¹, and the complex legal restrictions that relate to this land. The Council also cited the lack of consensus as significant. The proposal to convert the entire walled garden to a kitchen garden is opposed by two overlapping local groups, the Friends of Allesley Park and the Allesley Park Residents Association (APRA). In written submissions to the review, the Friends of Allesley Park do not want the kitchen garden area to extend beyond its current boundaries.

Note: “Conversion” versus “Restoration”

This document uses the more value-neutral term “conversion” to describe the proposal to turn the whole of Allesley Park Walled Garden into a kitchen garden, rather than “restoration”. APWGG uses the term “restoration”, and the City Council generally has too. “Restoration” is more normative, implying as it does an action that is beneficial to the city’s heritage. While it is certainly the case that there are kitchen gardens which date back to the late eighteenth century and beyond, the evidence for Allesley Park is not clear. This undermines the historical legitimacy implied by the term “restoration”.

Since the 1970’s, the walled garden has been ornamental, with lawn, beds and trees. Previously, after the land had passed to the Council, it was used for cultivation of bedding plants by the Parks Department. Before this, it is certain that from around 1890, the walled garden was used nearly exclusively as a kitchen garden, for a period of about fifty years to the middle of the twentieth century. However, going back further, the historical record becomes increasingly thin. Even the generally agreed date of construction – about 1786 – is based on indirect evidence (tax returns and purchases of bricks) rather than specific statements.

Fundamentally, there is simply no detailed historical record of what Allesley Park Walled Garden looked like, and what it was used for, in, say, 1800. It is therefore not possible to “restore” the garden to what it was like at this time, as no-one knows accurately what it was like. Any planting arrangement will therefore be at best a combination of influences (i.e. what is known of common practice elsewhere), and conjecture. Key is the assumption that it was a kitchen garden. It might

¹ None of the trees in the walled garden has a Tree Protection Order (TPO). The Council does not need to issue TPOs for trees on its own land. However, Officers have suggested that were a lease to be granted to APWGG, which would give APWGG greater control over the site, then a TPO for the Wellingtonia redwood would be appropriate.

not have been; it is not automatically the case that walled gardens near large houses were for growing vegetables. They were also used for ornamental planting arrangements, and fruit trees.

APRA member David Sheppard has undertaken credible, detailed research of the walled garden's history, and concluded that what evidence there is suggests that the walled garden was largely ornamental, and not a kitchen garden, for most of its early life, up until the late nineteenth century. While the evidence used is not compelling in isolation – much of it is circumstantial – cumulatively the case presented is a strong one. It is plausible that Allesley Park Walled Garden was designed and built as an ornamental garden and, more controversially, it is arguably the case that this explanation is more probable than the suggestion that it was constructed as a kitchen garden for growing vegetables.

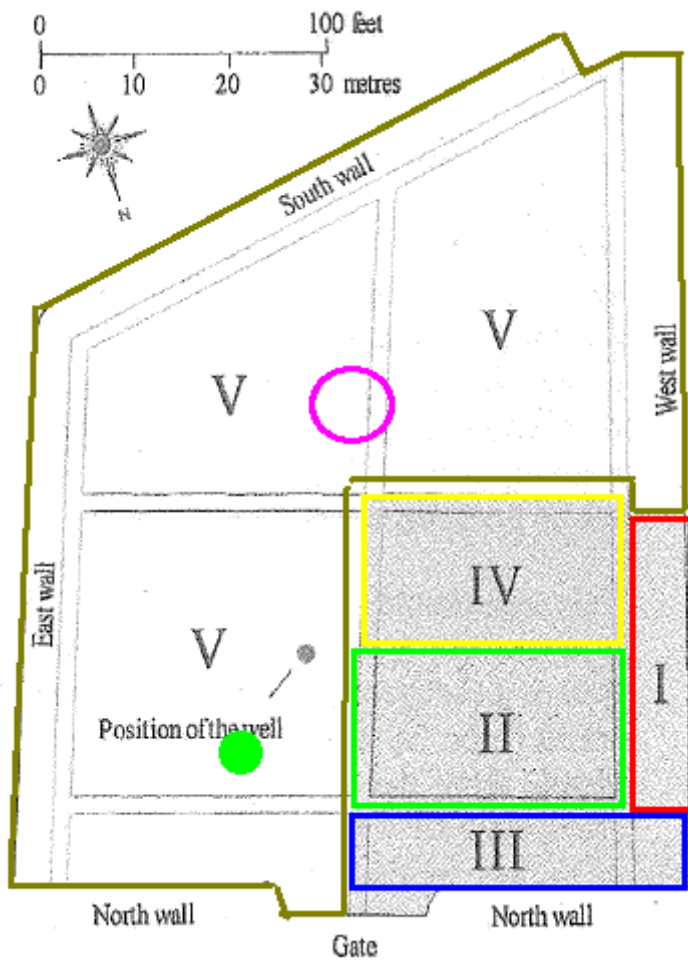
Taking this at face value, it is therefore reasonable to suggest that Allesley Park Walled Garden could be “restored” to a number of alternate uses, with highly varying degrees of authenticity. Taking David Sheppard's arguments to their logical conclusion would suggest that the most authentic “restoration” would be to a solely ornamental garden, as this, he suggests, is what the walled garden was built as in 1786. A purist approach to horticultural archaeology questions whether it is appropriate to privilege the use of a garden at one point in time over the use to which it was put at another; crude assertions about what a particular garden was used for most (i.e. for the longest period of time) are also unhelpful. Given this uncertainty, the term “conversion” seems fairer, as it sidesteps the whole debate about historical authenticity, or competing visions of the walled garden's past.

It seems unlikely that there will be a definitive settlement of the historical debate. This should not preclude debate about the walled garden's future. Equally, this historical uncertainty does not mean that it would necessarily be wrong to convert the whole of the walled garden to a kitchen garden. It is reasonable to prefer that the walled garden be used for one thing over another. That is a value judgement based on a wider set of interests. However, it is not reasonable, in the case of Allesley Park Walled Garden, to claim historical legitimacy for a particular use, given the sketchy historical record, possible alternative findings, and the specious mistake of privileging one period of a garden's history over another.

B. Short chronology and commentary

January 2000

The "Allesley Park Walled Garden Group" (APWGG), by then an unincorporated association in existence since early 1997, submits to the Council *A Proposal for the Restoration of the Walled Garden in Allesley Park*. It proposes a five-phase conversion of the walled garden from an ornamental garden, with trees, lawns and flowerbeds, to a kitchen garden, growing produce in a manner that seeks to replicate historical practice.



This map is extracted from the 2000 APWGG proposal. The coloured lines were added for this report to make the image clearer, and denote the proposed phases of the conversion. The green circle, bottom left is the rough position of the Wellingtonia redwood. The pink circle is the approximate location of the centre bed.

February 2000

The "Sports and Parks Policy Team" (the Council committee responsible for Parks under the former political management arrangements) agrees to a pilot project allowing APWGG to cultivate a small part of the walled garden and grow fruit, flowers and vegetables. This equates to Phase I of the proposal.

The Sports and Parks Policy Team is recommended to:

"request a report back on the success of the trial restoration and on the progress of the Group with a view to proceeding to restore the whole of the walled garden area".²

September 2000

Though APWGG began work in March 2000, soon after the committee decision, the land is not officially licensed to APWGG until 5 September 2000, in an agreement signed by then APWGG Chairman David Sheppard. A property licence, in this context, is where the landowner (the City Council) allows another organisation (APWGG) to use a site for purposes set out in a licence agreement – in this case "only in connection with the 'A Proposal for the Restoration of the Walled Garden in Allesley Park' document dated January 2000".³ The licence relates specifically to Phase I of the project. A licence is short-term in nature, in this case rolling on a yearly basis. A license holder has fewer rights than a leaseholder, with the landowner retaining a greater degree of control over the property, e.g. retaining rights of access.

January 2001

By January 2001, the Council's decision-making structure has moved to an interim "Leader and Cabinet" model, when Cabinet Member for Cultural and Leisure Services, Councillor Val Stone, approves the report *The Walled Garden, Allesley Park – Restoration Project – Update*. This short report notes the "excellent progress" APWGG had made, and the Cabinet Member:

"Approved an extension to the existing partnership agreement with the Allesley Walled Garden Group [sic] *including extensions to the appropriate licence agreement when required*, to enable them to complete the restoration of the garden".

The Cabinet Member adds the section in italics at the meeting. Ratification Committee formally approves the decision the following day.⁴ The report includes proposals for "small revenue contributions" to support the work of APWGG, Officer support with APWGG bid writing, and included the assertion that there would be the "Legal implication" of setting up "a lease/partnership agreement".

While the report's language arguably offers room for alternate interpretations, the report's content and tone suggests clearly that, at this time, it is the Council's intention to support the conversion of the whole of the walled garden to a kitchen garden, in line with the APWGG plan. There is, significantly, no specific mention of a break between any of the "phases" of the APWGG plan.⁵

February 2003

On 13 February APWGG becomes a "company limited by guarantee". It is about this time that disagreements around the development of the walled garden begin to emerge, focusing initially on the future of the trees in the walled garden – particularly a Wellingtonia redwood tree. With a quarter of the walled garden now cultivated by APWGG (phases I to IV of the 2000 plan), consideration moves to whether APWGG should proceed to "Phase V" – the conversion of the remainder of the walled garden to a kitchen garden. It should be noted that while APWGG had

² Committee Report, Sports and Parks Policy Team, Report of the Strategic Director (City Development), *The Walled Garden, Allesley Park – A Restoration Proposal*, 14 February 2000

³ Licence Agreement, Coventry City Council and Allesley Park Walled Garden Group, 22 August 2000

⁴ Ratification Committee Minute 219, Recommendations Submitted for Ratification by the Cabinet Member (Cultural and Leisure Services) in Respect of Items Considered as Public Business, 17 January 2001

⁵ While the Council report makes no mention of a "break" between Phases IV and V, Officers from Culture, Leisure and Libraries implicitly assume that there would be a review after Phase IV. The APWGG proposal reinforces this position: "After Phase IV it will be possible to review the success of the project, in order to assess the feasibility of a full-scale restoration of the whole garden." *A Proposal for the Restoration of the Walled Garden in Allesley Park*, Allesley Park Walled Garden Group, January 2000.

been granted implicit approval to cultivate up to a quarter of the site (Phases I to IV), the 2000 licence agreement had not been amended, and still covered only the relatively small Phase I area. No additional licence had been sought or granted.

November 2003

The Council and APWGG correspond on the issue of the existing trees in the walled garden. There is consideration of whether, as part of any bid for external funding, money could be found to replace the trees in the walled garden, once felled, with trees planted elsewhere in Allesley Park. There is acknowledgement that the cost of replacing a mature Wellingtonia redwood tree could be "colossal".⁶

By this point, David Sheppard has resigned as Chair of APWGG, and joined Allesley Park Residents Association (APRA), which is opposed to the implementation of the APWGG plan.

Late 2003

APRA uses its newsletter to seek views on where money should be spent to improve Allesley Park. The consultation makes no specific reference to the APWGG kitchen garden project, but includes a preference option for "Plants for the walled garden".

March 2004

APRA sets out its opposition to the APWGG plans in correspondence with the Council. Grounds for opposition include:

- Historical authenticity – APRA challenges whether the APWGG plans can be called a 'restoration'
- Preservation of trees in the walled garden
- The accessibility of the walled garden as the location for a tourist attraction
- A general critique of the viability of APWGG

Summer 2004

APRA comments on its earlier consultation on Allesley Park in its newsletter (see "*Late 2003*", above). The "Chairman's Report" states, "I was pleased with the amount of interest in the Walled Garden in returning it to its [sic] splendour of the seventies and eighties, with suggestions of benches, flower boards and picnic tables."⁷

February 2005

Officers meet informally with Ward Councillors and then Cabinet Member Culture, Leisure and Libraries, Cllr Shabbir Ahmed, to consider the walled garden. At the meeting it is agreed that Officers will write to APWGG to inform them that permission to begin conversion of the rest of the garden will not be forthcoming. There were no papers for this meeting, and no minute was kept.

In letters to APWGG on 21 February and 23 May, Officers cite the failure of APWGG to meet the criteria that would allow them to proceed, as extracted from their 2000 proposal. These are, a) sufficient volunteers, b) use of the walled garden as an educational resource, c) a credible business plan with identified financial support, and d) a five year work plan. Officers also note

⁶ Correspondence, M Harris to R Penlington (City Development), 9 December 2003

⁷ *Focus*, Allesley Park Residents Association newsletter, Issue No 171, Spring/Summer 2004, "Chairman's Report"

the significance of local opposition to the plans, the existing trees in the walled garden, and the legal complexity associated with providing a lease.

The meeting also considers an APRA counter-proposal for the walled garden, recommending that local APRA volunteers work to improve the remaining three-quarters of the walled garden, retaining it as an ornamental garden. This is rejected, pending the outcome of the negotiations with APWGG.

March 2005

In response to the Council's letter, APWGG and its supporters write letters to the Council, Members of Parliament, and the Lord Mayor.

April 2005

The Council responds. The letter, from Cllr Shabbir Ahmed, states that,

“On completion of phase IV of the work, a decision would need to be taken, by the APWGG as to whether Phase V, which involve [sic] the remainder of the garden, could be undertaken.”

The meaning of this sentence is arguably unclear, as it seems to suggest that the decision to proceed rests with APWGG. Clarification from Officers suggests that it in fact relates to whether APWGG had confidence that they had the necessary support and financial backing to request a lease of the whole site from the City Council. The letter notes that the original proposal identified a) “success of the project”, b) “the number of volunteers”, c) “that the Group would become a Charitable Trust”, and d) that “£300,000” of funding “could be identified” as the criteria for embarking on phase V. The letter does not state which of these criteria have been met, and which have not. The letter notes the Council's concern at the “proposed loss of maturing trees”, commenting that the original 2000 APWGG proposals were not clear that all the existing trees would need to be removed.⁸

The letter then states that,

“The conflict of interest [sic] between equally enthusiastic groups who do not seem to want to work together in partnership with the Council...has prompted our decision not to proceed further with the restoration of the garden”

The letter then notes the legal complexity of offering a lease – a process that would require a form of statutory public consultation – and concludes that the Council is willing to support the status quo.⁹

On 13 April 2005, then Lord Mayor Cllr John Gazey hosts a meeting with APWGG, attended by officers but not the ward councillors. The meeting is regarded as generally positive, but does not agree any specific actions, except for a commitment from APWGG that they would begin work on a business plan.

⁸ This assertion is debateable; in a section headed "Existing Planting", the 2000 APWGG proposal states, "The generally poor quality and uninteresting variety of the existing planting will justify the removal of most of it, with the possible exception of a few wall-plants such as the *Akebia* and the *Poncirus*. The trees are growing too vigorously and are unsuitable for retaining in the Walled Garden, because they are taking valuable nutrients and moisture from the soil. In some cases they may eventually undermine the wall and adjacent buildings". The "some cases" comment almost certainly refers to the Wellingtonia Redwood, about which APWGG has expressed concerns on a number of occasions since.

⁹ Correspondence, Cllr Ahmed to various recipients, April 2005

Summer 2005

Although the collection of signatures started as early as Spring 2004, by summer 2005 APWGG has raised a petition with over 1500 signatures in support of its proposals. The petition is not submitted to Coventry City Council. There is some evidence that Officers, and probably Members, were aware of the petition by this time.¹⁰

January 2006

APWGG continues work on a draft business plan, including "negotiations with a third party on a partnership deal".¹¹

October 2006

Provisional APWGG business plan is shared with Officers.

December 2006

Following a request from City Development officers, Council lawyers offer an analysis of the legal issues related to potentially offering a lease to APWGG. The note states that:

- The intention to offer a lease of public open space would have to be advertised, and any objections considered
- Release from at least some of the freehold covenants would be required
- The Secretary of State's consent would be required if a long lease (more than seven years) was granted at less than "best consideration"
- The lease would have to be granted subject to "the existing easements", such as, for example, public general access.
- Grant of a lease for over seven years would have required land registration

The note concludes, "I do not consider that it would be advisable to grant a lease of the site to the [Allesley Park Walled Garden] Group".¹²

January 2007

Following an APWGG enquiry about the possibility of securing a lease for the whole site, officers write to APWGG. Officers note that the lease request must be received in writing, and it cannot be processed until it reflects the legal circumstances. Officers also state that a copy of the APWGG business plan is required. A copy of the legal note is included (see December 2006, above).

May 2007

Following receipt of the letter containing the legal recommendation, APWGG enters into correspondence with the then Chief Executive, Stella Manzie. APWGG notes that it cannot submit a business plan until it knows what the terms of a lease will be.

¹⁰ Email, "RE: Allesley Park Walled Garden – Minutes", G Carter (Legal Services) to C Edwards (Culture, Leisure and Libraries), 16 June 2005 13:20

¹¹ Correspondence, M Harris to S Manzie, Chief Executive, 3 May 2007

¹² Memo, "Allesley Walled Garden, Allesley Hall Park, Coventry", from Daniel Hobson (Finance and Legal Services) to Alan Belgrove (City Development), 13 December 2006

July 2007

Then Chief Executive corresponds with APWGG setting out the issues around providing a lease, and seeks further information about the APWGG proposals.

August 2007

APRA makes representations to Officers and members objecting to APWGG activities and plans. The condition of the remainder of the walled garden is also raised.

Then Chief Executive corresponds with APWGG stating that the dispute between APWGG and APRA "will create a barrier to your group securing the lease you seek".¹³

September - October 2007

APWGG organises a postcard campaign in support of its proposals, with about 100 responses. Again, the postcard campaign, like the earlier petition, is not submitted to the Council for formal consideration. Officers and members may have been aware of the postcard campaign.

December 2007

Officers meet with APWGG

January 2008

Officers meet with APRA.

June 2008

Following further consideration of the issue, then Chief Executive writes to APWGG suggesting,

"In the meantime Janice [Nichols]¹⁴ and Ces [Edwards]¹⁵ are suggesting that your existing lease [sic] on the walled garden be renewed as I understand the current lease was agreed some time ago. They are also suggesting that the renewed lease is for you to cultivate half of the walled garden rather than the current quarter".¹⁶

Again it is worth noting that the 2000 licence was still in force, which only covers a small part of the land under cultivation.

July 2008

On 3 July Officers and Members meet with APWGG. APWGG rejects the proposal for it to have access to half of the walled garden on a renewed licence. APWGG is of the view that without a lease for the whole site, or at least clarity about the circumstances in which one would be granted, cultivating half the site on the existing licence terms would not be in their interest.

On 25 July Cllr Cliff Ridge asks Cllr Joe Clifford for Scrutiny Board 4 support for a review of Allesley Park Walled Garden.

¹³ Correspondence, S Manzie to M Harris, 6 August 2007.

¹⁴ Chief Executive's Directorate

¹⁵ Culture, Leisure and Libraries

¹⁶ Correspondence, S Manzie to M Harris, 13 June 2008

The terms of reference for the review are to:

- publish a comprehensive summary of the current situation with regards to Allesley Park Walled Garden
- undertake public consultation to ascertain with confidence public views about the walled garden and its future
- make viable recommendations to Cabinet on the future of the Walled Garden

August 2008

Further legal advice states that Charity Commission approval would be required before the Council could grant APWGG a long-term lease

October 2008

APWGG requests Council financial support for a shelter in the walled garden, at an estimated cost of £15,000 to £20,000. Officers, after seeking guidance from ward councillors, defer the request pending the outcome of the Scrutiny Board 4 review.

November 2008

Scrutiny Board 4 receives a briefing note on the review.¹⁷

¹⁷ <http://cmis.coventry.gov.uk/CMISWebPublic/Meeting.aspx?meetingID=1246>

C. Key issues in the debate about the future of Allesley Park Walled Garden

Why is the continued conversion of at least part of Allesley Park Walled Garden to a kitchen garden a good idea?

- Chimes with the promotion of sustainability objectives, e.g. reduced food miles, self-sufficiency, organic agriculture
- Educational opportunities, e.g. healthy eating, five-a-day, food preparation skills
- Community development, e.g. encouraging volunteering
- Historical interest e.g. recreation of historical methods of cultivation, re-introduction of historic species
- Tourist attraction for Coventry and the sub-region, and possibly wider
- A successful project would be a general boost to local economy
- Potentially prestigious local asset that could attract grant income
- An enthusiastic and well-organised organisation is already in place

Why would the conversion of the whole of Allesley Park Walled Garden to a kitchen garden be a good idea?

- A larger project would create greater opportunities for many of the advantages outlined above
- Complete conversion, based on a lease, would allow application for very large external funding grants
- The uncultivated part of the walled garden is poorly maintained – a kitchen garden would be an aesthetic improvement over its present condition

Why would it not be a good idea to convert the whole of Allesley Park Walled Garden to a kitchen garden?

- The issue divides the local community – there is vociferous local opposition
- A kitchen garden is less visually attractive than a well-maintained ornamental garden, and arguably provides less general amenity
- A full conversion would fail to make use of the offer by the "Friends of Allesley Park" to use volunteers to maintain the walled garden as an ornamental space
- Disagreement over the historical record: can what is proposed be called a 'restoration'?
- There are legal problems that restrict the Council's ability to grant a lease, notably because the land is currently open space. Charity Commission consent may be required. Issuing a lease would be an expensive, complex and time consuming legal process, requiring public consultation – the cost of which would fall on tax payers
- Full conversion requires large scale external funding which may not be forthcoming – the amount required could be substantial¹⁸
- Allesley Park Walled Garden is a fairly large area, and its complete conversion would be a large-scale project with a significant risk of failure
- If APWGG fails, the Council would be faced with either ending the project, or accepting the cost to the public purse of keeping the kitchen garden going
- The location is unsuitable, given the scale of what is proposed (the project requires development of the site, and, it is assumed, permanent structures):
 - Current public transport service limits the catchment area for volunteers and visitors
 - The location is away from areas of deprivation and health inequality
 - Small car park, no coach parking
 - Direct access on foot problematic (through sheltered accommodation)
 - Poor access for vehicles to site – particularly significant during any construction phase, but also an issue in the longer term

¹⁸ As an example, the restoration of Hill Close Gardens in Warwick required a grant of £971,000 from the Heritage Lottery Fund. See <http://www.hillclosegardens.com/>

- Only entrance is through an enclosed gate of restricted size
- No electricity, water, sewage, or telecommunications on site
- The possibility of worsening access, if plans for the development of Allesley Park as a whole move forward¹⁹
- Risk that a kitchen garden and new structures could attract vandalism
- Loss of trees, particularly a Wellingtonia redwood tree
- There is concern that the organisation in place to deliver the conversion is not capable of undertaking such a large project

¹⁹ A recent Allesley Park draft masterplan includes proposals for removal of a path that leads to the walled garden

D. What is the Council's position?

In formal terms, the Council's position is still as expressed in the 2000 and 2001 reports – the last time the Council agreed public decisions related to Allesley Park Walled Garden.

In the 14 February 2000 report:

"The Sport and Parks Policy Team is recommended to:

- i. Approve the creation of a Partnership Agreement with the *Allesley Park Walled Garden Group* for them to undertake restoration of a trial area within the walled garden at Allesley;
- ii. Request a report back on the success of the trial restoration and on the progress of the Group with a view to proceeding to restore the whole of the walled garden"

In the 16 January 2001 report:

"To approve an extension to the existing partnership agreement with the Allesley Walled Garden Group [sic], including extensions to the appropriate license agreement when required, to enable them to complete the phased restoration of the garden"

However, in practical terms, the Council has, in some form, arrived at a number of *de facto* decisions relating to the walled garden:

- The Council does not want existing trees in the walled garden to be felled, particularly the Wellingtonia redwood tree
- The Council will not, at the present time, offer APWGG a lease for the entire site. It is not clear whether it is the Council's position that if APWGG meets the series of conditions set out in various communications, that the Council would be willing to offer a lease. These conditions are based loosely on the original APWGG proposal, but the criteria for meeting these conditions have not been expressed clearly, and no timescales have been agreed
- The Council regards local opposition to the APWGG plans also as grounds for refusing to offer a long-term lease
- The Council regards the legal complexities associated with granting a lease as sufficient to be a factor in whether a lease is offered or granted
- The Council is willing to offer APWGG a continued short-term licence to cultivate up to half of Allesley Park Walled Garden – this is a significant variation from the project plan initially agreed
- The Council has to allowed the *status quo* to continue

The Council has also decided, though perhaps without conscious deliberation, that no formal public report, consideration or consultation has been, or is necessary for it to have reached its current position.

E. What is the APWGG position?

APWGG wants a long-term lease, or a promise of a lease, for the whole of Allesley Park Walled Garden, so that it can seek external funding and complete its published plans to convert the whole of the walled garden to a kitchen garden.

APWGG believes that the 2000 and 2001 reports represent a commitment by the Council to allow a complete conversion of the garden to proceed, and that the Council has reneged on these earlier decisions.

APWGG believes that it has demonstrated to the City Council:

- The soundness of its governance arrangements, evidenced by it becoming a private company limited by guarantee, adopting appropriate protocols and procedures, and by virtue of the fact that it has survived and prospered for a decade
- Due consideration of the financial issues related to its proposals, including submitting, at various times, draft business plans and other financial information
- Success in attracting external funding from various sources
- Success in using the walled garden as an educational and outreach resource, with evidence of support from a wide range of organisations, including the Council's Children, Learning and Young People's Directorate, City College, Coventry University, and Henley College
- Success in building a network of support with other stakeholders and potential partners, including a range of voluntary and community groups
- Success in engaging the public in its work, demonstrated both by the number of volunteers it has (estimated by APWGG at about 100, but this has not been confirmed independently), and public visits to its events
- Wider public support for its proposals, via a large petition and a post card campaign, with evidence that it can claim significant support from local Allesley Park and Allesley Village residents. APWGG has expressed concern that its efforts to develop and gauge public support have not been acknowledged by the Council
- Support from the owners of Allesley Hall Nursing Home, the immediate neighbours
- Viable plans for future development

APWGG has threatened to withdraw from the current project on a quarter of the site if it does not get a lease for the whole walled garden.

APWGG regards the retention of the existing trees and planting in the walled garden as incompatible with conversion of the whole of the walled garden to a kitchen garden. APWGG argues that, on a practical level, some of the existing plants, notably the Wellingtonia redwood tree, threaten the structural integrity of the walls.

F. What is the APRA/Friends of Allesley Park position?²⁰

APRA/Friends of Allesley Park submissions to the review state that the APWGG project should not be extended beyond its existing boundaries.

The Friends of Allesley Park have proposed that its volunteers could support the improvement and maintenance of the remainder as an ornamental garden. They want the remainder of the walled garden to be returned to as it was in the 1970s to late 1990s, and have submitted detailed proposals.

APRA/Friends of Allesley Park regards the APWGG proposals as incompatible with the Council's Green Space Strategy, Climate Change Strategy, and the Allesley Park Masterplan.

APRA/Friends of Allesley Park question the accessibility of the site, and the suitability of the site on a number of issues.

APRA/Friends of Allesley Park challenge the historical authenticity of the APWGG proposals, claiming that there never was a Georgian kitchen garden in the walled garden, and that the walled garden has been ornamental for most of its existence.

APRA/Friends of Allesley Park question the capacity of APWGG to maintain its current kitchen garden on a quarter of the site, let alone convert and maintain the entire walled garden.

APRA/Friends of Allesley Park regard it as unlikely that complete conversion could be commercially successful, and attract the necessary funding.

APRA/Friends of Allesley Park are keen to see the existing trees, notably the Wellingtonia redwood tree, and other mature plants in the walled garden – such as a large *Wisteria* – retained.

APRA/Friends of Allesley Park fear that a kitchen garden and associated structures would attract vandalism

APRA/Friends of Allesley Park believe that they represent the views of local people living near Allesley Park, and that APWGG is not representative of local opinion. The Friends of Allesley Park claim they would be able to call on a cohort of local volunteers to support their work.

²⁰ The "Friends of Allesley Park" group was formed in 2007. Some of its membership overlaps with APRA, and the two groups can be considered as having the same views on the development of the walled garden.

G. Findings arising from the documentary record and consideration to date:

The 2000 and 2001 reports

To the reasonable observer, the 2000 and 2001 Council reports support the proposal that the whole of Allesley Park Walled Garden should be converted to a kitchen garden at some point.

- The report states that there has been "excellent progress", i.e. implying that the Council's conditions for continued support have been met
- Neither report mentions a break between phases IV and V – reference to this emerged only later
- The 2001 report references provision of a "lease" when required as a legal implication of approval

Findings:

- **The 2000 and 2001 reports support the conversion of the whole of the walled garden to a kitchen garden. However, the 2001 report is unclear about both how this was to be achieved, and the Council's ongoing project management role.**
- **The 2001 report did not put in place appropriate project management arrangements. This meant that the Council has not adequately monitored and controlled the development of the Allesley Park Walled Garden project.**
- **The 2001 report offered no milestones or indicators for the rest of the project, and therefore did not provide a clear framework for future decision-making.**
- **Given that the 2001 report specifically mentions Phase II of the project, it would have been appropriate for the Cabinet Member to make formal decisions on any subsequent phases. However, this did not happen.**

The subsequent informal decisions relating to Allesley Park Walled Garden

The Council has not given public consideration to Allesley Park Walled Garden since January 2001; there have been no Cabinet Member reports, Cabinet reports, or Council consideration. However, a number of informal decisions have been taken since the 2000 and 2001 reports, some of which are at variance to the earlier recommendations. Council correspondence with APWGG and others cited these later informal decisions as the basis for a change in Council policy towards Allesley Park Walled Garden.

- Officers have allowed APWGG to undertake phases III and IV, and, in error, allowed the planting of the central bed
- In 2003/04 Officers decided that the project should not proceed to Phase V because of the issues of the existing trees, and the developing opposition from APRA
- In February 2005, the Cabinet Member and Ward Councillors decided in an informal meeting that the project should not proceed to Phase V
- In 2007 Officers wrote to APWGG notifying them of a Council lawyers' recommendation that a lease should not be granted
- In 2008, Officers wrote to APWGG offering them a continued license to cultivate up to half of the walled garden

Findings:

- **The series of informal decisions changed the Council's policy towards Allesley Park Walled Garden, as set out in the 2000 and 2001 reports.**
- **These decisions should instead have been the subject of further formal reports, so as to ensure appropriate clarity and accountability.**

- **The lack of clarity about Council policy towards the APWGG project had created confusion. For example, City Services officers have been unclear as to who is responsible for the maintenance of the remainder of the walled garden. The consequence of this has been a steady deterioration in the maintenance of the remainder of the walled garden, and errors, such as the granting of permission to allow the planting of the central bed.**

Appropriate consideration of the APWGG petition and postcard campaign

In 2005, APWGG raised a petition in support of its proposals, with over 1500 signatures. This petition was not considered by the City Council as part of its procedures for dealing with petitions. The petition was not formally submitted to the Council. In 2007, APWGG organised a postcard campaign in support of its plans, but again this was not submitted to the Council.

Findings:

- **If the petition and results of the poster campaign had been submitted to the Council for formal consideration, they would have provided the opportunity for public expression of the Council's position and a decision about the future development of the project**

The Council's conditions

The Council has not specified clearly under what circumstances it would be willing to offer a lease to APWGG to convert the whole of the walled garden. The Council has listed the following as reasons why it is not willing to offer APWGG a lease (not all these reasons have been included in every communication):

- Lack of consensus on the proposals, and the APRA opposition
- Failure to provide a business plan
- Failure to provide a five year work plan
- Failure to demonstrate adequate funding for the project
- Failure to provide evidence that APWGG has enough volunteers to support the project
- Failure to provide evidence that APWGG has in place adequate governance arrangements
- Failure to demonstrate that APWGG has established adequate educational outreach
- Concerns about loss of trees, particularly the Wellingtonia redwood
- Concerns about the legal considerations around offering a lease (these focus on the requirement to consult and, more recently, the requirement to secure Charity Commission approval)

Findings:

- **The Council could have been clearer about the reasons for not offering a lease. For example:**
 - o **What level of opposition would be sufficient to prevent the Council from supporting the granting of a long-term lease?**
 - o **If the Council were to consider offering a lease, what would the terms (particularly the cost) be?**
 - o **How many volunteers would be sufficient? What evidence does the Council need of volunteer support?**
 - o **What governance arrangements does the Council want to see? Does the Council regard APWGG's current governance arrangements as adequate?**

- **What level of outreach work would the Council regard as sufficient to meet the criterion of providing an educational resource?**
- **How is the need to preserve trees balanced against other considerations?**

Legitimacy and relative merit

The Council has treated APWGG and APRA arguments as having equal merit despite having no evidence of their respective legitimacy. Both APWGG and APRA have been in regular contact with the Council – Officers and Members – to state their respective positions. Both have sought to generate public support for their positions:

- APWGG has supported letter-writing campaigns, a petition, and a post card campaign, and has secured local media coverage.
- APRA has used a local newsletter, written to the Editors of local newspapers, and undertaken historical research on Allesley Park Walled Garden, the findings of which arguably undermine APWGG's claims for the historical legitimacy of their proposals

At least two consultations about Allesley Park have taken place since 2003.

In late 2003/early 2004 APRA used its newsletter to consult on priorities for potential additional funding for Allesley Park. The consultation makes reference to Allesley Park Walled Garden, but does not seek to represent the full debate about the walled garden.

In 2008, the Council undertook a survey that, including sub-headings, asked nearly fifty questions about attitudes to and use of Allesley Park and sought views on its development. 5000 surveys were sent out, and over 750 responses received. None of the questions makes reference to the walled garden, the kitchen garden, or the APWGG proposals. A "master planning" exercise that followed specifically excluded the walled garden from consideration.

Findings:

- **The Council has treated APWGG and APRA arguments as having equal merit despite apparently having no evidence of their respective legitimacy, or undertaking consultation to ascertain the public's views.**
- **The Council has not consulted adequately on the future of the walled garden. The decision to not include Allesley Park Walled Garden as a specific theme in the 2008 survey and master planning exercise represents a missed opportunity.**

Briefing Note

To
Scrutiny Board 4

Date: 10 December 2008

Subject
Review of Allesley Park Walled Garden – Next Steps

1. Purpose of the Note

To ask Scrutiny Board 4 to decide how the review of the Allesley Park Walled Garden should be concluded.

2. Recommendations

Scrutiny Board 4 is recommended to decide:-

- a) whether it now has sufficient information for it to make a recommendation to the Cabinet Member (Culture, Leisure and Libraries) in relation to the future maintenance of the Allesley Park Walled Garden and if so, what that recommendation might be.
- b) whether to adopt the proposed recommendations relating to procedures set out in section 5 below.

3. Information/Background

- 3.1. At the Board's last meeting, it considered a briefing note outlining the progress to date on this issue. The note indicated that a baseline document was being prepared for the Board to consider on 10th December, 2008.
- 3.2. That report, which sets out the chronology of this issue and draws out the resulting findings, is the previous item on the agenda for this meeting.
- 3.3. Section C of that report (Page 15) sets out the key issues relating to the future of the Walled Garden and section G shows the findings from the documentary record.
- 3.4. In the light of the details set out in those sections of the report, the Board needs to decide whether it now has sufficient information for it to make recommendations to the Cabinet Member (Culture, Leisure and Libraries) and if so, to decide what those might be.
- 3.5. The main issue to decide is how the Walled Garden will be maintained in future, bearing in mind the key issues set out in Section C of the progress report. Options for recommendations to the Cabinet Member to address this issue are set out in Section 4 below.

3.6. In coming to its decisions on this, the Board will need to bear in mind the following:-

- the previous briefing note indicated that surveys could be carried out both locally and across the city, to find out the views of residents. However, it is likely to prove difficult to do this: already one organisation approached to tender for this work has now indicated that it does not wish to do so. In addition, it is questionable how useful such surveys would be, particularly a city-wide survey on an issue which has a very local focus, albeit that there might be wider environmental concerns. The Board needs to balance the cost of surveys (which could be several thousands of pounds) against their usefulness and decide whether they should go ahead.
- The Allesley Park Walled Garden Group and the Allesley Park Residents' Association have each been offered a meeting with Board Members. The Board needs to decide whether these should go ahead: if it decides that they should, it needs to be clear about the purpose of the meetings.

3.7. In addition, officers propose that, irrespective of its decision on the main issue, the Board make some recommendations relating to future procedures, to try to ensure that there is no repetition of the difficulties which have occurred in relation to the Allesley Park Walled Garden. These recommendations are set out in section 5 below.

4 Options for Recommendations on the Future Maintenance of the Allesley Park Walled Garden

Option 1 - Maintain the status quo

Option 2 - Allow the Allesley Park Walled Garden Group to continue to cultivate the area it currently occupies, but on the understanding that:

- there must be negotiations between the City Council officers and the Allesley Park Walled Garden Group about the future of the project, including what activities it should undertake and closer oversight by City Council officers.
- if the negotiations do not result in agreement by the parties, maintenance responsibility for the whole of the site would return to the City Council.

Option 3 - Allow the Allesley Park Walled Garden Group to cultivate the whole site

As shown in Section C of the progress report (Page 15), this would involve a number of significant challenges relating to practical, physical, legal and financial issues, which would need resolution and involve considerable resources and risk.

Option 4 - Transfer maintenance responsibility for the whole of the site to the City Council, no later than when the current licence arrangements expire.

Clear maintenance standards would need to be set, so that the overall appearance of the site would be attractive to look at and appealing to visitors.

5 Proposed Recommendations relating to Procedures

That the Cabinet Member (Culture, Leisure and Libraries) be asked to ensure that:-

- a) in future, decisions are taken in accordance with accepted Council practice and procedures, so that it is clear who has taken decisions and when they were taken.

- b) appropriate measures are put in place to improve clarity in relation to objectives when projects are approved and in relation to the management of projects, so that any criteria about issues including standards of maintenance, conditions of use, timescale and requirements which should be met before phases of projects are implemented can be monitored and can be applied.

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